

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
SINGLE MEMBER APPEAL BRANCH

Appeal No. E/3658/2005-SM[BR]

Date 14/01/2008

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
C.C.E LUCKNOW
7-A, ASHOK MARG, LUCKNOW

C.C.E LUCKNOW

Appellant
Vs
Respondent

M/S FAUCET INDUSTRIES

I am directed to transmit herewith a certified copy of Final order No.65/2008-SM[BR] dated 15.10.2007
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

M/S FAUCET INDUSTRIES
GAUR KENDRA, DELHI-MATHURA BYE PASS,
P.O.CHHATIKARA, MATHURA
281001

2. Adv. / Consult

NONE--

3. S.D.R.

~~4. J.C.D.R.~~

5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, marg. 43, saket, New
7. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301
9. R.Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,
12. Co, Law Institution
13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file


Assistant Registrar
(SM Appeal Branch)

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
PRINCIPAL BENCH, COURT NO.III**

Excise Appeal No.3658 of 2005-SM (BR)

(Arising out of Order-in-Appeal No.427-CE/05 dated 31.8.2005 of the
Commissioner of Central Excise (Appeals), Lucknow).

For approval and signature:

Hon'ble Mr. P.K. Das, Member (Judicial)

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1. Whether Press Reporters may be allowed to see the order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?
 2. Whether it should be released under Rule 27 of The CESTAT (Procedure) Rules, 1982 for Publication in any authoritative report or not:
 3. Whether their Lordships wish to see the fair Copy of the Order?
 4. Whether Order is to be circulated to the Department Authorities.
-

N

CCE, Lucknow

...Appellants

Versus

M/s.Faucet Industries

.....Respondent

Appearance:

Shri S.L. Meena, Departmental Representative (DR) for the
appellant/Department.

None for the respondent.

65/08 SM (BR)

Final Order No...../...../Dated:15.10.2007

Per P.K. Das:

● The Revenue filed this appeal against the Order-in-Appeal No.427-CE/2005 dated 31.08.2005.

2. The relevant facts of the case in brief are that the respondents are engaged in the manufacture of tapes and cocks classifiable under Chapter heading No.8481.00 of the Central Excise Tariff Act, 1985. On 24.7.2002, the Central Excise Officers verified the stocks of the appellants' factory and found shortage of the finished goods involving duty of Rs.1,366/-. The adjudicating authority confirmed the demand of duty of Rs.400/-- and imposed penalty of Rs.10,000/- under Rule 25 of the Central Excise Rules, 2002 read with Section 11AC of the Central excise Act, 1944. The respondent filed appeal before the Commissioner (Appeals). By the Order-in-Appeal dated 31.08.05, the Commissioner (Appeals) upheld the demand of duty and reduced the penalty to Rs.2,000/- and redemption fine to Rs.2,500/- . The Revenue filed this appeal against reduction of penalty.

3. Heard Id. JDR on behalf of the Revenue.

4. None appeared on behalf of the respondent.

5. Ld. DR on behalf of the Revenue submits that the Commissioner (Appeals) erroneously reduced the penalty as the penalty was imposed under Rule 25 of the Central Excise Act, 2002, which suggests minimum penalty of Rs.10,000/-. He relied upon the decision of the Tribunal as follows:-

- (1) Manoj Jaiswal – 2007 (213) ELT 115 (T-D)
- (2) Sarjoo Sahakri Chini Mills Ltd.
2006(204) ELT 748 (T-D)

6. After hearing the Id. DR and on perusal of the records, it is seen that the Commissioner (Appeals) has observed that it is established without doubt that the respondents did not maintain records properly as required under Rule 10, for which the respondent is liable to penalty under Rule 25 of the Central Excise Rules, 2002. On plain reading of Rule 25 of the Central Excise Rules, 2002, it provides that the maximum penalty not exceeding the duty on the excisable goods in respect of which any contravention has been committed or Rs.10,000/- whichever is greater. Thus, it is clearly evident that the penalty of Rs.10,000/- is the minimum amount required to be imposed under the said rules. The Tribunal in the case of Sarjoo Sahakari Chini Mills Ltd. (supra) held that penalty of Rs.5,000/- prescribed in Rule 173Q of the erstwhile Central Excise Rules, 1944 would constitute minimum penalty is required to be imposed.

7. In view of the above, I find that the reduction of the penalty by the Commissioner (Appeals) less than Rs.10,000/- is not sustainable. Accordingly, the order of the Commissioner (Appeals) to the extent of reduction of penalty to Rs.2,000/- is set aside. The order of the adjudicating

- authority imposing penalty of Rs.10,000/- under Rule 25 of the Central Excise Rules, 2002 is restored. The appeal filed by the Revenue is allowed.

Order dictated & pronounced in open court on 15.10.2007.

(P.K. Das)
Member (Judicial)

Ckp.