

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/1212/2006-SM[BR]

Date 25/01/2008

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

To :
M/S JANDIAL SHOE FACTORY
INDRA MILLS COMPOUND JEONI MANDI AGRA,

M/S JANDIAL SHOE FACTORY

Appellant

CCE,KANPUR

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No.168/2008-SM[BR] dated 17.12.2007 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
CCE,KANPUR
117/7,SARVODYA NAGAR KANPUR
2. Adv. / Consult
MR.BIPIN GARG
B-1/1289,A-VASANT KUNJ, NEW DELHI
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)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH
NEW DELHI, COURT NO. III**

Excise Appeal No.1212 of 2006-SM (BR)

[Arising out of order in appeal No.3/Commr/Tech/Rem./05 dated 22.12.2005
passed by the Commissioner, Central Excise, Kanpur]

Date of Hearing/ Decision:17.12.2007

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 Departmental authorities? | : | } |
-

M/s. Jindal Shoe Factory

...Appellants
[Rep. by Mr. Atul Gupta, Co. Secretary.]

Vs.

CCE, Kanpur

Respondent
[Rep. by Mr. A.K. Rastogi, Authorized Representative (DR)]

CORAM: Mr. P.K. Das, Member (Judicial)

Final Order No. *168/08 sm (BR)* /Dated:17.12.2007.

• **Per P.K. Das:**

The appellant filed this appeal against rejection of application for remission of duty under Rule 49 of the erstwhile Central Excise Rules, 1944.

2. Heard both sides and perused the records.

3. The Commissioner of Central Excise observed that the Departmental Officers were not able to verify the loss of footwears on which remission of duty was claimed by the party and also party could not provide any records in support of their claim.

4. Ld. Counsel on behalf of the appellant drew the attention of the Bench to the relevant portion of the order, where it is stated that the appellant produced the report of Fire Brigade Officer, F.I.R. copy and insurance claim, etc.

5. It is also seen from the impugned order that the Range Superintendent reported that they were not permitted by the police officials to visit the area owing to gravity of fire and he visited next day on 17.10.98 for ascertaining the loss caused by fire to that area. It is also stated that the appellant's factory got fired on 16.10.98 at 2.00 p.m. destroying entire building, machine, furniture, finished and unfinished shoe, sole as well as raw materials and office records including Central Excise records. However, I find that the appellant produced the Police Report, Fire Bridge Report,

Insurance claim alongwith other documents, which is required to be examined by the adjudicating authority. Accordingly, the impugned order is set aside and the matter is remanded back to the Commissioner to decide afresh after verifying the reports and documents placed by the appellant. It is made clear that the Revenue shall also examine their own records, if necessary. Needless to say that the Commissioner shall provide proper opportunity of hearing before deciding the matter.

Order dictated & pronounced in open court on 17.12.2007.

(P.K. Das)
Member (Judicial)

Ckp.