

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/1213/2006

Date 25/01/2008

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

To :
M/S MEGHDOOT STEEL IND
HATHRAS ROAD AGRA

M/S MEGHDOOT STEEL IND

Appellant

Vs
Respondent

CCE,KANPUR

I am directed to transmit herewith a certified copy of Final order No.170/2008-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 SHRI. BIPIN GARG ADV.
B-1/1289-A, VASANT KUNJ NEW DELHI-70
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.1213 of 2006-SM (BR)

[Arising out of order in appeal No.1/Commr./Tech./Rem./2005 dated 20.12.2005
passed by the Commissioner of Central Excise, Kanpur]

Date of Hearing/ Decision:17.12.2007

For approval and signature:

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

-
- | | | |
|--|---|---|
| 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. Meghdoot Steel Industries

...Appellants
[Rep. by Shri 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. *170/08-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 rejected the remission claim on the ground that the appellant failed to intimate the Central Excise Authorities within 24 hours of the outbreak of fire. It has been observed that the appellant had not intimated the Department within 24 hours. Id. Counsel on behalf of the appellant drew the attention of the Bench to the reply of the show cause notice. It is seen that the fire was broken out on 16.5.2000 at 6.00 p.m. and intimation was given on 17.5.2009. It has further seen that the Central Excise Officers immediately visited the premises of the factory. Therefore, the rejection of the claim of the appellant on these grounds is not sustainable. The Commissioner (Appeals), on one hand, rejected the claim as the intimation was given after 24 hours on the other hand, he decided this case on merits. I find that the stand is totally contradictory. Hence, the rejection of the claim for failure to intimate the central excise authorities within 24 hours is set aside and the matter is remanded back to the Central Excise Authorities to decide the matter on merit afresh. At this stage, Id. Counsel submits that the issue is already covered by the decision of the Tribunal. The Commissioner (appeals) will decide the matter after examining the case law as cited by the Id. Counsel. Needless to say that the adjudicating authority shall provide proper opportunity of hearing before deciding the matter. The appeal is allowed by way of remand.

Order dictated & pronounced in open court on 17.12.2007,

(P.K. Das)
Member (Judicial)

Ckp.