

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/1799/2006-SM[BR]

Date 28/01/2008

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

To :
M/S PARMARTH IRON P LTD
10TH KM STONE NAGINA ROAD, BIJNORE

M/S PARMARTH IRON P LTD

CCE,MEERUT

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 172/2008-SM[BR] dated 3.1.2008
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


~~Assistant Registrar~~
(SM Appeal Branch)

Copy to :

1. Respondent

CCE,MEERUT

MANGALO PNADEY NAGAR,OPP CCS UNIVERSITY
MEERUT

2. Adv. / Consult

MR.L.P ASTHANA

R-163, SECOND FLOOR, GREATER KAILASH-1, NEW DELHI - 110 048.

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 & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R.K.Puram, New Delhi-110066.
Principal Bench, New Delhi.

Excise Appeal No.1799 of 2006-SM

**(Arising out of Order-in-Appeal No.06-CE/MRT-1/06 dt.27.2.06 passed
by the Commissioner(Appeals), Meerut)**

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 would 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

M/s. Parmarth Iron Pvt. Ltd.

Appellant

VS

CCE, Meerut

Respondent

Appearance

Shri Abishekh Jaju, Adv. for appellant

Shri Rajmal, Authorised Representative(DR) For Respondent


Coram: Hon'ble Mr.P.K.DAS, MEMBER JUDICIAL

fmal Date of decision: 2.1.08
Order No. 172/08-SM(BA)

Per P.K.Das:

Heard both sides and perused the records. The appellant filed this appeal against imposition of penalty under Section 11AC of Central Excise Act,1944.

2. The relevant facts of the case are that the Central Excise Officers visited the factory premises and checked the stocks of finished excisable goods. The appellant paid duty on the excess stock before issue of the show cause notice. The adjudicating authority appropriated the duty as deposited by the appellant and also imposed penalty of equal amount to the duty under Section 11AC of the Central Excise Act,1944.

3. I find that there is no allegation of suppression of facts with intent to evade payment of duty. Therefore, Section 11AC cannot be invoked in this case. It is seen that the Hon'ble Punjab & Haryana High Court in the case of CCE, Ludhiana vs Sigma Steel Tubes reported in 2007(218)ELT.657(P&H) held that the duty is deposited before issuance of show cause notice, ~~the~~  penalty under Section 11AC of the Act and Rule 25 of Central Excise Rules,2002 cannot be invoked. In view of the above, I set aside the penalty imposed under Section 11AC of the Central Excise Act. The appeal is allowed.

Order dictated in the open Court.

(P.K.Das)
Member Judicial

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