

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/1909/2006-SM[BR]

Date 31/01/2008

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

To :
THE COMMISSIONER OF CENTRAL EXCISE INDORE
(MP)
P.B.NO.10, MANIK BAGH PALACE, INDORE
452001

THE COMMISSIONER OF CENTRAL EXCISE INDORE
(MP)

Appellant

M/S STL EXPORTS LTD

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 210/ 2008-SM [BR] dated 9.1.2008
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
M/S STL EXPORTS LTD [100%EOU]
A.B.ROAD, SARANGPUR, DISTT. RAJGARH (M.P.)
2. Adv. / Consult SHRI. ATUL GUPTA C.S.
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)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No.1909/2006-SM

(Arising out of order in appeal No.Ind/1/78/06 dated 21.2.2006 passed by the Commissioner (Appeals), Customs & Central Excise, Indore)

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?

CCE, Indore

Appellant
(Rep. by Shri Rajmal, DR)

Vs

M/s STL Exports Ltd

Respondent
(Rep. by Shri Atul Gupta, Co. Secy)

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

Date of Hearing: 9.1.2007

Per P.K. Das:

Final Order No. 210 (02-SM(BR))

The Revenue filed this appeal against the Order in Appeal No. Inv/78/06 dated 21st February, 2006 passed by the Commissioner (Appeals) whereby the adjudication order was set aside.

2. Heard both sides and perused the record.

3. After hearing both the sides and perusal of the record, I find that the demand of duty was raised on the basis of difference between the balance sheet and RG.I figure. The adjudicating authority confirmed the demand of duty and imposed penalty of equal amount alongwith interest. The Commissioner (Appeals) set aside the adjudication order and allowed the appeal filed by the respondent. It is seen from the order that the Commissioner (Appeals) set aside the adjudication order on the ground of limitation, the explanation given by the respondent had been taken into account. The Commissioner (Appeals) observed that the balance sheet being a public document, extended period cannot be invoked by alleging suppression of fact. He has also considered the explanation given by the respondent regarding the difference in quantity. It is also considered that the zinc scrap which is alleged to have been cleared by the respondent without payment of duty, appears to be covered by the decision of the Hon'ble Supreme Court based on which duty demand raised against the Tubes India Ltd was set aside vide order No. 648/03 dated 14.11.2003 which has been upheld by the Tribunal.

4. I find that the revenue had not contested the above finding of the Commissioner (Appeals) in the grounds of appeal. It appears that there was a dispute of the clearance of zinc scrap which was decided by the Tribunal in favour of the assessee and therefore, the extended period of limitation cannot

be invoked. Accordingly, I do not find any reason to interfere with the order passed by the Commissioner (Appeals). The appeal filed by the revenue is rejected.

(Order dictated and pronounced in the open Court).

MPS*

(P.K. Das)
Member(Judicial)