

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/29 /2006-SM[BR]

Date 31/01/2008

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

To :
M/S ATMA TUBE PRODUCTS LTD.
DERA BASSI, DISTT. PATIALA, PUNJAB.

M/S ATMA TUBE PRODUCTS LTD.

Appellant

CCE, CHANDIGARH

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No.215/2008-SM[BR] dated 18.12.2007 passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
CCE, CHANDIGARH
CR, BUILDING, PLOT NO-19, SECTOR-17, CHANDIGARH
2. Adv. / Consult
MR. GAGAN KOHLI
394, SECTOR-30 A, CHANDIGARH
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. 29 of 2006 -SM (BR)
[Arising out of order in appeal No. 223/CE/CHD/05 dated 22-24.06.2005
passed by the Commissioner of Central Excise (Appeals), Chandigarh]

Date of Hearing/ Decision: 18.12.2007

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? | : | : <i>no</i> |
| 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 Atma Tube Products Limited	Appellant
[Rep. by Mr. Gagan Kohli, Advocate for the Appellant]	

Vs.

CCE, Chandigarh	Respondent
[Rep. by Mr. A.K. Rastogi, Authorised Representative (DR)]	

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

Final ORDER No. 215/08-SM(BR)

Per P.K. Das:

The appellant filed this appeal against Order-in-Appeal No. 223-224/CE/CHD/2005 dated 22.06.2005 passed by the Commissioner of Central Excise (Appeals) against redemption fine of Rs. 75,000/-.

2. Learned Advocate on behalf of the appellant submits that the appellant cleared 5.190 MTs of C.R. Strips accompanied with challan No. 352 dated 04.12.2003 to M/s D.P. Tubes Limited after processing on job work basis. He submits that the Central Excise officers intercepted the truck loaded with the said goods and found 13 coils of C.R. Strips which were wrapped with jute fabric and tagged/sealed with the name of manufacturer as M/s Hero Cycles Ltd., Ludhiana. He submits that M/s Hero Cycles Ltd., were sending the C.R. strips to them for manufacturing C.R. Tubes on job work basis. The label wrapped on the 13 coils in the jute fabrics of M/s Hero Cycles Ltd. ^{was} sent by them. He further submits that there is no dispute regarding the weight of the seized goods and the subsidiary challan. According to him, the entire seizure is based on presumption and assumption.

3. Learned DR reiterates the finding of the Commissioner (Appeals). He submits that there is no dispute that the 13 coils wrapped with jute fabric and tagged with the name of M/s Hero Cycles Ltd., cleared clandestinely in the guise of job work material. He further submits that the representative of the appellant accepted the loading of the goods in the jute fabric in the name of M/s Hero Cycles Ltd.,

4. After hearing both the sides and on perusal of the records, I find that there is charge of clandestine removal of 13 coils, C.R. strips, which were wrapped with jute fabric and tagged/sealed in the name of M/s Hero Cycle Ltd.,. It is seen that Sh. Rajeev Sehgal, Assistant Manager (Liaison) in his statement dated 04.12.2003 admitted the dispatch of 13 coils pertain to M/s Hero Cycles Ltd., Ludhiana and remaining three coils pertain to the appellant. Learned Advocate submits that the said representative in his statement dated 15.01.2003 stated that he is unable to explain the

● reason of the same as the dispatch staff and quality staff were not present .
their. I find that there is no dispute that the seized goods were packed in
jute fabric and tagged of the name of M/s Hero Cycles Ltd., I have seen
that the appellant admitted the clearance of the said goods in their
statement at the time of interpretation. I do not find any force in the
submission of the learned Advocate that the representative of the
appellant in his statement dated 15.1.2003 clarified his inability to explain
the reason. In any event, it is seen that the appellant did not explain the
reason and for loading of 13 coil in the name of M/s Hero Cycles Ltd.,
Ludhiana before filing the reply to show cause notice. Therefore, I do not
find any merit in the submission of the appellant. I find that the amount of
fine of Rs. 40,000/- was imposed on truck for loading of seized goods and
Rs. 35,000/- on the seized goods. In the facts and circumstances of the
case, I reduce the redemption fine to Rs. 20,000/- on truck and Rs.25,000/-
on the seized goods. The appeal is disposed of in the above terms.

(Order dictated and pronounced in the open Court)

(P.K. Das)
Member (Judicial)

[Pant]