

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/1648/2006-SM[BR]

Date 01/02/2008

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

To :
M/S RAMESH STEEL INDUSTRIES UNIT II
G.E.ROAD, TATIBANDH, RAIPUR (C.G.)

M/S RAMESH STEEL INDUSTRIES UNIT II


Appellant

Vs

Respondent

THE COMMISSIONER OF CENTRAL EXCISE RAIPUR

I am directed to transmit herewith a certified copy of Final order No. 220/ 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

THE COMMISSIONER OF CENTRAL EXCISE RAIPUR
CENTRAL REVENUE BUILDING, TIKRAPARA,
DHAMTARI ROAD, RAIPUR

2. Adv. / Consult

MR. 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.1648/2006-SM

(Arising out of order in appeal No.23/RPR.I/06 dated 20.2.06 passed by the
Commissioner (Appeals), Customs & Central Excise, Raipur)

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

M/s Ramesh Steel Industries

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

Vs

CCE, Raipur

Respondent
(Rep. by Shri Rajmal, DR)

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

Date of Hearing: 9.1.2007

Final Order No. *220 (08 SM (BR))*

Per P.K. Das:

The relevant facts of the case in brief are that on 25th June, 2002, the Central Excise officers verified the stock of finished goods and inputs and detected shortage and the appellants paid the duty before issue of show

cause notice. The adjudicating authority confirmed the demand of duty and appropriated the amount as deposited and also imposed penalty under Section 11AC of Central Excise Act, equal to the amount of duty. The appellants paid the penalty of 25% of the duty within one month from the date of receipt of adjudicating order. The Commissioner (Appeals) in the stay order, recorded this fact. However, Commissioner (Appeals) ~~by~~ the order in appeal dated 19th May, 2004, rejected the appeal of the appellant. Thereafter, it transpired that the appellant paid the penalty from their Cenvat account. Hence the show cause notice dated 16th December, 2004 was issued proposing that the amount of penalty of Rs. 68,171/- paid through Cenvat credit account is irregular and therefore, benefit of reduced penalty should be denied to them. The adjudicating authority held that the amount of penalty of Rs. 68,171/- debited from Cenvat account is void and the appellants are no longer entitled to get the benefit of reduced penalty. The Commissioner (Appeals) upheld the adjudicating order.

2. Heard both sides and perused the record.

3. After hearing both the sides and on perusal of the record, I find that the appellants placed on record of payment of penalty from Cenvat account before the Commissioner (Appeals) in the earlier proceedings and no dispute was raised. However, subsequently, it was detected by the department and a show cause notice was issued accordingly. Therefore, the appellant is required to pay the amount of 25% from their PLA or in cash. There is no reason to deny the benefit of the reduced penalty as they have already complied with the provision and duly accepted by the Department. Accordingly, I modify the impugned order and the appellant is directed to

deposit the amount of penalty of Rs.68,171/- from their PLA or in cash within one month from today. I set aside the impugned order in so far as denial of benefit of reduced penalty under Section 11AC of the Act. The appeal is disposed of in the above terms.

(Order dictated and pronounced in the open Court).

MPS*

(P.K. Das)
Member(Judicial)