

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/698 /2006-SM[BR]

Date 01/02/2008

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

To :
CCE, CHANDIGARH
C.R.BUILDING, SECTOR-17C, CHANDIGARH

CCE, CHANDIGARH

M/S AGGARWAL STEEL ROLLING ILLS & METAL
IND

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 223/2008-SM[BR] dated 14.1.2008
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 AGGARWAL STEEL ROLLING ILLS & METAL IND
AMLOH ROAD, MANDI GOBINDGARH
2. Adv. / Consult
NONE-----
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.698/2006-SM

(Arising out of order in appeal No.421/CE/Chd/05 dated 30.11.2005 passed by the Commissioner (Appeals), Customs & Central Excise, Chandigarh)

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?

NS

CCE Chandigarh

Appellant
(Rep. by Shri S. Gautam, SDR)

Vs

M/s Aggarwal Steel Rolling Mills & Metal Ind Respondent
(Rep. by none)

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

Date of Hearing: 14.1.2008

Final Order No. 223 / 08 SM (BR)

Per P.K. Das:

Heard the learned DR on behalf of the Revenue. None appeared on behalf of the respondents inspite of notice.

2. On 4th November, 2003, the Central Excise officers visited the factory of the respondents and detected the shortage of goods. The representative of the respondent, admitted the shortage and explained that there was error due to wrong reporting of the production by the illiterate labourer. The respondent also deposited the duty immediately before issuance of the show cause notice. The adjudicating authority confirmed the duty and appropriated the same as deposited by the respondent and imposed penalty under Section 11AC of the Central Excise Act, 1944. The Commissioner (Appeals) set aside the penalty.

3. It is seen that the respondent deposited the duty immediately upon detection of shortage by the officers during stock verification. They also explained the reason for shortage. In reply to show cause notice, the respondent contended that there was no shortage. The adjudicating authority confirmed the duty on the basis of the statement of the representative of the respondent. Therefore, there is no material of clandestine removal of goods. The imposition of penalty under Section 11AC is not sustainable. Accordingly, I do not find any reason to interfere with the order of 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)