

**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/693 /2006

Date 05/02/2008

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

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

CCE, CHANDIGARH

M/S ALCON WIRES & CABLES IND

Appellant  
Vs  
Respondent

I am directed to transmit herewith a certified copy of Final order No. 257/2008-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 ALCON WIRES & CABLES IND  
FOCLA POINT, RAJPURA, DISTT. PATIALA (PB)
2. Adv. / Consult SHRI. J. P. KAUSHIK ADV.  
A-14/3, SAKET NEW DELHI-110017
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.693 /200<sup>6</sup>-SM

(Arising out of order in appeal No.423/CE/Chd/05 dated 30.1.05 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?

22

CCE Chandigarh

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

Vs

M/s Alcon Wire & Cable Industries

Respondent  
(Rep. by Shri J.P. Kaushik, Advocate)

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

Date of Hearing: 14.1.2008

Final Order No. 257/08-SM(BR)

Per P.K. Das:

The Revenue filed this appeal against the order of the Commissioner  
(Appeals).

2. After hearing both the sides and on perusal of the record, it is seen that the Central Excise officers visited the respondents factory on 30.7.2004 and detected shortage and excess of finished goods of different variety. The respondent deposited the duty on the shortage of material on the date of visit. The respondent explained that the shortage and excess of finished goods had occurred as the figures were not reported correctly by the production staff. The adjudicating authority confirmed the demand of duty of Rs.10,236/- on shortage, which was deposited by the respondent before issue of show cause notice and also imposed penalty of equal amount under Section 11AC of Central Excise Act, 1944. He also imposed penalty of Rs.10,000/- and redemption fine of Rs. 25,000/- on excess goods. The Commissioner (Appeals) set aside the penalty under Section 11-AC of Central Excise Act and reduced the redemption fine to Rs.5,000/-.

3. I find that the excess and shortage of finished goods were detected during stock verification. There is no material of clandestine removal of goods. Section 11AC of the Central Excise Act, 1944 cannot be invoked. The Tribunal in the case of CCE Vs Prism Pigments & Colours Pvt Ltd reported in 2007 (82) RLT 835 and CCE Jaipur Vs Lucky Plast Ltd reported in 2007 (81) RLT 492 held that penalty under Section 11AC is not attracted when the duty was deposited before issuance of show cause notice and no evidence of clandestine removal. Regarding the reduction of redemption fine, the Commissioner (Appeals) has given a detailed finding on the issue. I do not find any reason to interfere with the order of Commissioner (Appeals). The appeal filed by the revenue is rejected.

(Order dictated and pronounced in the open Court).

MPS\*

(P.K. Das)  
Member(Judicial)