

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/1029/2006-SM[BR]

Date 06/02/2008

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

To :
CCE,ALLAHABAD
38,M.G.MARG,CIVIL LINES,ALLAHABAD

CCE,ALLAHABAD

M/S SHRI GIRISH CHANDRA PATHAK

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No.271/2008-SM[BR] dated 21.1.2008
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 SHRI GIRISH CHANDRA PATHAK
VILLAGE-JAKHO GOPIGANJ DISTT.RAVIDAS
NAGAR,BHADOHI(UP)

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)

**IN THE CUSTOMS, EXCISE & SERVICE
TAX APPELLATE TRIBUNAL,
WEST BLOCK NO. 2, R.K. PURAM,
NEW DELHI**

COURT -II

CENTRAL EXCISE APPEAL No. 1029 OF 2006-SM

[Arising out of Order-in-Appeal No. 127-CE/ALLD/2005 dated 28.12.2005 passed by the Commissioner (Appeals), Central Excise, Ludhiana]

For approval and signature:

Hon'ble Mr. S.S. Kang, Vice President

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 would 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, Allahabad

Appellant

Vs.

Shri Girish Chandra Pathak

Respondents

Appearance:

Shri Sumit Kumar, DR, for the appellant,
None for the respondents,

Coram:

Hon'ble Mr. S.S. Kang, Vice President

Date of Hearing: 21.1.2008

FINAL ORDER NO. 271/08-SM (dated 21-1-08)

Per S.S. Kang:

Heard learned D.R. as none appeared on behalf of the respondents in spite of notice.

2. Revenue has filed this appeal against impugned order whereby the Commissioner (Appeals) has set aside the confiscation of truck and imposition of penalty on the owner of truck. The only contention of the Revenue is that as per provisions of Customs Act any conveyance or animal used as transport in smuggling of the goods shall be liable for confiscation unless the owner of the same proves that it was so used without the knowledge or connivance of the owner or his agent.

3. In the impugned order the Commissioner (Appeals) held that there is nothing on record to show that the owner of truck or the driver had any knowledge about the contraband nature of the goods. The admitted fact is that truck loaded with goods was found inside the factory premises. In the present appeal Revenue has not produced any evidence from which inference can be drawn that the owner or the driver of the truck had any knowledge about the contraband

nature of the goods. Revenue has submitted that driver in his statement admitted that no document relating to the said goods was handed over to him. Truck was standing in the factory premises. Therefore, it can not be inferred that the owner or his driver has knowledge about the contraband nature of the goods. In view of this I find no merit in the appeal. Appeal is dismissed.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

Dated 22nd January, 2008

RK