

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/2414/2006-2415/2006-SM[BR]

Date 07/02/2008


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

To : SHRI. BALRAM KORI
VIJAY KUMAR KAPIL KUMARI
BIRI MANUFACTURE, PANT NAGAR, SAGAR [M.P.]
2, M/SVIJAY KUMAR KAPIL KUMAR
PANT NAGAR SAGAR [M.P.]
VIJAY KUMAR KAPIL KUMAR

Appellant
Vs
Respondent

C.C.E BHOPAL

I am directed to transmit herewith a certified copy of Final order No275- 276/2008-SM[BR]. Dated24.1.2008
passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
C.C.E BHOPAL
HOSHANGABAD ROAD, 48, ADMINISTRATIVE
AREA, AREA HILLS, BHOPAL (M.P.) 462011
2. Adv. / Consult SHRI.P.C.KASHIV
E-3/49, KAMDDAR MARKET STOP NO.10, BHOPAL
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, NEW DELHI
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

Excise Appeal No. 2414-2415 of 2006-SM(BR)

(Arising out of Order-in-Appeal No. 94/CEX/BPL/2005 dated 29.9.2005 passed by the Commissioner, Central Excise, Bhopal)

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.	

Balram Kori
M/s Vijay Kumar Kapil Kumar

Appellant

Vs.

CCE, Bhopal

Respondent

Appearance:

Shri P.C Kashir, Advocate
Shri B.S. Suhag, DR

- For appellant
- For respondent

CORAM:

HON'BLE MR. S.S. KANG, VICE PRESIDENT

Date of Hearing: 24.1.2008

Final Order No. 275-76/08-SM(BR) dated 24.1.2008

Per S.S. Kang:

The appellant filed these appeals against the impugned order whereby demand was confirmed in respect of goods cleared without payment of duty and penalties were imposed.

2. The brief facts of the case are that the appellants are engaged in the manufacture of biris. The business premises of the appellant was searched and on verification it was found that there was shortage of 17,18,720 biris. During the search of premises of Shri Balram Kori certain torn page of RG-12A were also found and from the torn page it was found that appellants were clearing the goods on parallel set of invoices without payment of duty. Show-cause notice was issued demanding duty in respect of goods found short and goods cleared on parallel invoices and for imposition of penalties. The adjudicating authority confirmed the demand and imposed penalties. The appeal filed by the appellant was dismissed by Commissioner (Appeals).

3. The contention of the appellant is that all the issues raised before the Commissioner (Appeals) was not considered in the impugned order. It is also submitted that Revenue has not proved that goods were cleared without payment of duty.

4. The Id. DR appearing on behalf of the Revenue submitted that at the time of verification there was shortage

of finished goods which was not explained by the appellant, and certain documents was found in torn condition which shows the clearance of goods regarding which no duty has been paid. The contention is that in absence of any explanation the demand was rightly made.

5. I find that the finished goods were found short as per the record maintained by the appellant there is no explanation regarding this shortage. Certain records in torn condition were found in the premises of Shri Balram Kori which shows the proof of certain invoices and quantity of goods cleared regarding which no duty has been paid. In view of this evidence, I find no merit in these appeals, the same are dismissed.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

RM