

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/2624/2006

Date 07/02/2008

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

To :
M/S LAKSHMI STEEL ROLLING MILLS LTD.
G.T.ROAD OPP. POWER HOUSE KHANNA-14140-1 [PUNJAB]

M/S LAKSHMI STEEL ROLLING MILLS LTD.

Appellant

Vs

Respondent

CCE,LUDHIANA

I am directed to transmit herewith a certified copy of Final order No.282/2008-SM[BR] dated 25.1.2008
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

CCE,LUDHIANA

2. Adv. / Consult SHRI. PARMINDER SINGH ADV.

C-5/9, SAFDARJANG DEVELOPMENT AREA OPP IIT GATE NEW DELHI

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 – 110 066.
Principal Bench, New Delhi**

COURT NO. III

Excise Appeal No. 2624 of 2006 – SM (BR)

[Arising out of the Order-in-Appeal No. 323/CE/CHD/2006 dated 28/04/2006 passed by The Commissioner (Appeals), Customs and 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 would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? : **NO**
 3. Whether their Lordships wish to see the fair copy of the order? :
 4. Whether order is to be circulated to the Department Authorities? :

M/s Lakshmi Steel Rolling Mills

Appellant

Versus

CCE, Ludhiana

Respondent

Appearance

Shri Parminder Singh, Advocate – for the appellant.

Shri S.L. Meena, Authorized Representative (SDR) – for the Respondent.

CORAM : Hon'ble Shri P.K. Das; Member (Judicial)

DATE OF HEARING : 25/01/2008.

Final Order No. 282/08-SM(RD) Dated : 25.1.08

Per. P.K. Das :-

Heard both sides and perused the records. The appellant filed this appeal against imposition of penalty of Rs. 1,00,000.00.

2. The learned advocate on behalf of the appellant submits that the appellant paid duty in terms of the ACP determined vide order dated 5th February 1998. They also challenged the ACP order before the Tribunal. Vide Order dated 29th March 2005, the Tribunal set aside the ACP order and remanded back to the Competent Authority for determination of the ACP. He further submits that consequent upon the order of the Tribunal, the appellant filed the refund application of Rs. 5,84,940.00, which was refunded to them. He also submits that ACP is finally determined by dated 14/11/05 and the

appellant deposited the duty along with interest for the period September 1997 to March 1998 on 10/12/05. Adjudicating Authority confirmed the demand of duty of Rs. 5,94,580.00 and adjusted the said amount as paid by them on 10/12/2005 and imposed penalty of equal amount of duty. Commissioner (Appeals) reduced the penalty to Rs. 1,00,000.00. He submits that the appellant paid the duty in terms of the final ACP order. Therefore, penalty is not warranted. He relied upon the decision of the Tribunal as under :-

- (i) CCE, Ludhiana vs. Hans Steel Rolling Mills in final order No. 878/07 – SM (BR) dated 3.5.07
- (ii) CCE, Ludhiana vs. Vashisht Ispat Products in final order No. 734/07 – SM (BR) dated 23.03.2007

3. The learned DR reiterates the findings of the Commissioner (Appeals). He submits that the Commissioner (Appeals) already reduced the penalty and therefore there is no justification to interfere the order of the Commissioner (Appeals).

4. After hearing both the sides and on perusal of the records, it is seen the appellant paid the duty in terms of the ACP order dated 5th February 1998. The revenue also refunded the amount of duty as deposited by them earlier, consequent upon the order of the Tribunal. The ACP order was finalized on 14/11/05 and the appellant paid the duty with interest on 10/12/06. Thus, there is no contravention of the Rules on part of the appellant. Accordingly, penalty is set aside. The appeal is allowed with consequential relief.

(Dictated and pronounced in open court)

(P.K. Das)
Member (Judicial)

PK