

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/3348/2006-SM[BR]

Date 18/03/2008

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

To :
M/S EGGRO PAPER MOULDS LTD
D-5, SECTOR-14, JAGDISHPUR, DISTT-
SULTANPUR(UP).

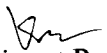
M/S EGGRO PAPER MOULDS LTD

C.C.E. LUCKNOW

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 335 /2008 –SM[BR] dated 1.2.2008

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. LUCKNOW

7-A, ASHOK MARG, LUCKNOW.

2. Adv. / Consult

MR.S.P. OJHA

299, BAGHAMBARI HOUSING SCHEME, ALLAHPUR, ALLAHABAD, (UP)

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 AND SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, NEW DELHI
COURT NO-III
Appeal No. E/3348/06 SM(BR)

[Arising out of Order-in-Appeal No.55 & 56/CE/LKO/2006 dated 26.05.2006 passed by the Commissioner (Appeal) of Central Excise, Lucknow.]

For approval and signature:

Hon'ble Member (J) Shri P.K. DAS

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?

M/s Eggro Paper Moulds Ltd.

Appellant

Vs.

CCE, Lucknow

Respondent

Appearance:

Shri F.M. Das, Employee
Shri S. Gautam, DR

- for the Appellants.
- for the Respondent

CORAM: SHRI P.K. DAS, MEMBER (JUDICIAL)

Date of decision: 01.02.2008

Final Order No. 33.5/08-SM(BR)

Per: Shri P.K. Das

Heard both sides and perused the records.

2. The adjudicating authority imposed penalty of Rs. 25,000/- (Rupees twenty five thousand only) under Rule 25 of Central Excise Rules 2002 for contravention of Rule 8 of Central Excise Rules, 2002 for delay in discharging duty liability for the month of October 2003, which was debited in December 2003. It is on record that the appellant had balance of Rs. 1,41,000.00 on 30th October, 2003 which could not be used due to some dispute. The Tribunal in the case of Condor Power Products Pvt. Ltd. Vs CCE Faridabad, 2007 (79) RLT 124 CESTAT-Del.) held that penalty under Rule 25 of Central Excise Rule 2002 is not leviable for delay in discharging duty under Rule 8 of Central Excise Rules, 2002 ~~due~~ as there was no intention to evade payment of duty, when the transactions were disclosed in returns and liability was not disputed. Respectfully following the decision of the Tribunal in the case of Condor Power Products Pvt. Ltd. (supra), penalty is set-aside. The appeal is allowed.

Order dictated and pronounced in the open court.

(P.K. Das)
Member (Judicial)

K. Gupta