

**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/2438/2006-SM[BR]

Date 04/03/2008

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

To :  
TRIVENI ENGG & IND.LTD.  
RAMKOLA, KUSHINAGAR, U.P

TRIVENI ENGG & IND.LTD.

Appellant

C.C.E ALLAHABAD

Vs  
Respondent

I am directed to transmit herewith a certified copy of Final order No. 377/2008 -SM[BR] dated 30.1. 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 ALLAHABAD  
38,M.G.MARG, CIVIL LINES, ALLAHABAD

2. Adv. / Consult

MR.RAJESH CHHIBBER  
FA/9, NEW KAVI NAGAR, GHAZIABAD

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.2438/2006-SM

(Arising out of order in appeal No. 49/CE/Alld/06 dated 12.5.06 passed by  
the Commissioner of Central Excise (Appeals), Allahabad )

M/s Triveni Engg & Industries Ltd Appellant  
(Rep. by Shri Rajesh Chhiber, Advocate)

Vs

CCE, Allahabad Respondent  
(Rep. by Shri A.K. Rastogi, DR)

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

Date of Hearing: 30.1.2008

Final order No. 377/2008-SM(BR)

Per P.K. Das:

The appellant filed this appeal against imposition of penalty of Rs.10,031/-. The learned Counsel submits that they had claimed credit of Rs.10,301/- by mistake which was detected by the Audit and the appellants immediately debited the same. After about two years, a show cause notice was issued proposing imposition of penalty. The Adjudicating Authority dropped the proceedings. However, the Commissioner (Appeals) imposed penalty under Rule 13 of the Cenvat Credit Rules, 2002 read with Section 11AC of Central Excise Act, 1944.

2. After hearing both the sides and on perusal of the record, I find that there is no malafide intention on the part of appellants <sup>(v)</sup> suppression of fact with intend to evade payment of duty. Accordingly, imposition of penalty is

● not justified and it is set aside. The appeal is allowed with consequential relief.

●  
  
(Order dictated and pronounced in the open Court).

MPS\*

(P.K. Das)  
Member(Judicial)