

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/2263/2006-SM[BR]

Date 11/03/2008

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

To :
M/S VISION METAL AIDS
D-30, BAHADRABAD INDUSTRIAL AREA,
HARIDWAR, UTTANCHAL

M/S VISION METAL AIDS

Appellant

THE COMMISSIONER OF CENTRAL EXCISE
MEERUT-I

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 391 /2008 -SM [BR] dated 16.1.2008
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

THE COMMISSIONER OF CENTRAL EXCISE
MEERUT-I
EXCISE CHOWK, UNIVERSITY ROAD,, MANGAL
PANDEY NAGAR, MEERUT-I
250005

2. Adv. / Consult

MR. SURENDRA PRASAD
40/159, C.R. PARK, N.DELHI- 110019.

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

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

2263/2006 SM
E/Appeal No. ~~1857/2006 SM~~

(Arising out of order in original No.41/Commissioner/M.1/05 dated
28.10.05 passed by the Commissioner of Central Excise (Appeals), Meerut)

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 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?

NO

M/s Vision Metal Aids

Appellant
(Rep. by Shri Surinder Prasad, Advocate)

Vs

CCE, Meerut-I

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

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

Date of Hearing: 16.1.2008

Final Order No. 391/08-SM(BR)

Per P.K. Das:

The appellant filed this appeal against rejection of the claim of remission of duty. It is seen from the impugned order that no adequate

measures and directions were taken by the appellant to meet out any untoward incident or accidental eventuality. The Commissioner observed that no efforts appear to have been undertaken by the appellants to avoid fire on their own, otherwise damage of such magnitude could have been avoided.

2. The Tribunal in the case of Shiva Essential Oils & Chemicals Vs CCE Noida reported in 2004 (168) ELT 121 held that Commissioner is not required to ascertain cause of fire in absence of proof to show that fire was caused by the appellant or by his negligence. The learned Advocate also relied upon the decision of the Tribunal in the case of UP State Sugar Corporation Ltd Vs CCE Meerut reported in 2004 (168) ELT 280.

3. After hearing both the sides and on perusal of the record, I find that Rule does not contemplate the reasons for fire. There is no dispute that fire was caused in the appellants factory and the goods were destroyed. Therefore, there is no reason to reject the remission application. Accordingly, respectfully following the above decision of the Tribunal, the impugned order is set aside and the appeal is allowed.

(Order dictated and pronounced in the open Court).

MPS*

(P.K. Das)
Member(Judicial)