

**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/2654/2006-SM[BR]

Date 18/03/2008

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

To :
CCE,RAIPUR

CCE,RAIPUR

M/S GOYAL PIPES P LTD.

Appellant

Vs

Respondent

I am directed to transmit herewith a certified copy of Final order No.425 /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

M/S GOYAL PIPES P LTD.
619-B, 612 , URLA INDUSTRIAL AREA RAIPUR [C.G.]

2. Adv. / Consult SHRI KISHAN KUMAR ADV.

A-5, BASEMENT LAJPAT NAGAR-III NEW DELHI-24

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. 2654 of 2006 – SM (BR)

[Arising out of the Order-in-Appeal No. 74/RPR-I/2006 dated 15/05/2006 passed by The Commissioner (Appeals-I), Central Excise, Raipur.]

For Approval and signature :

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

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- | | | |
|---|---|------|
| 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? | : | } Mr |
| 3. Whether their Lordships wish to see the fair copy of the order? | : | |
| 4. Whether order is to be circulated to the Department Authorities? | : | |
| | : | |

CCE, Raipur

Appellant

Versus

M/s Goyal Pipes Pvt. Ltd.

Respondent

Appearance

Shri A.K. Rastogi, Authorized Representative (SDR)– for the appellant.

Shri Kishan Kumar, Advocate – for the Respondent.

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

DATE OF HEARING : 25/01/2008.

Final Order No. 425/06-sm Dated : 25/1/2008

Per. P.K. Das :-

Revenue filed this appeal against the order of Commissioner (Appeals), whereby demand of duty was set aside as time bar.

2. After hearing both the sides and on perusal of the records, I find that the Commissioner (Appeals) agreed the confirmation of demand of duty with Adjudicating Authority on merit. But, Commissioner (Appeals) set aside the adjudication order on the ground that the charge of clandestine removal is based on balance-sheet which is a public document and therefore there is no suppression of fact with intent to evade payment of duty. The revenue contended in the grounds of appeal that the balance sheet was not made available to the department. It is also stated that the during the

visit of the officers of the Central Excise in the factory premises of the respondent and on further investigation, the fact of clandestine removal was brought in the notice of the department. I find that this fact was not before the Adjudicating Authority. The Commissioner (Appeals) had also not examined the facts of the case, as contended by the revenue in their appeal. Therefore, the impugned order is set aside and the matter is remanded back to the Adjudicating Authority to examine the contention of the revenue. The appeal is allowed by way of remand.

(Dictated and pronounced in open court)

(P.K. Das)
Member (Judicial)

PK