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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/2407/2006-SM[BR] Date 04/04/2008

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

To :
SHRI SHYAM PIPES PVT. LTD.
E-59, SITE B, INDL. AREA, SURAJPUR, G.B.NAGAR
(NOIDA)

SHRI SHYAM PIPES PVT. LTD. Appellant

Vs

C.C.E. NOIDA Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 545 /2008 –SM[BR] dated 20.2.2008 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. NOIDA
   B-123, SECTOR 5, NOIDA.
2. Adv. / Consult
   MR.D.K.TYAGI
   C-605, CHAWLA COLONY, BALLABGARH(FARIDABAD)
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 Publictions (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.2407 /2006-SM

(Arising out of order in appeal No.75-76/CE/Noida/06 dated 20.4.06 passed by the Commissioner of Central Excise (Appeals), Noida)

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 Shree Shyam Pipes Pvt Ltd — Appellant
(Rep. by Shri D.K. Tyagi, Advocte, Advocate)

Vs

CCE, Noida — Respondent
(Rep. by Shri B.S. Suhag, DR)

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

Date of Hearing: 20.2.2008

Final Order No. – 545 – /2008-SM(BR)

Per P.K. Das:

Heard both sides and perused the records.

2. The appellants are engaged in the manufacture of copper pipes and tubes. On 27.3.2004, the Central Excise officers visited their factory and

verified the stock of finished goods and raw material. The Central Excise officers detected the shortage and excess of raw material and finished goods. The Adjudicating Authority confiscated the excess goods and imposed redemption fine and penalty and also appropriated the duty as deposited on shortage. The Commissioner (Appeals) on the quantity of shortage remanded the matter to Adjudicating Authority and partly upheld the adjudication order.

3. On perusal of record, I find that the appellants contended before the Commissioner (Appeals) that the excess quantity was lying in unpacked condition. Further, it was contended that there was no proper stock taking. I find that the Commissioner (Appeals) had not given any finding on this issue. However, the Commissioner (Appeals) has already remanded this matter partly. So, the matter is remanded back to the Adjudicating Authority to decide it afresh after considering the submissions of the appellant. The appeal is allowed by way of remand.

(Order dictated and pronounced in the open Court).

(P.K. Das)
Member(Judicial)

MPS*