

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/~~2019~~/2006 -SM[BR] E/ CO / 226 / 2008

Date 10/11/2008

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

To :
C.C.E. LUCKNOW
7-A,ASHOK MARG,LUCKNOW.
C.C.E. LUCKNOW

Appellant

Vs
Respondent

M/S SHIVANGI METAL INDUSTRIES

I am directed to transmit herewith a certified copy of **Final order No. 1415 / 2008 -SM [BR]** dated 24.9.2008
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 SHIVANGI METAL INDUSTRIES

GAUR KENDRA,DELHI BYE PASS,MATHURA.

2. Adv. / Consult

NONE

3 S.D.R

~~4 J.C.D.R.~~

5 Bar association, CESTAT, New Delhi

6 M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017

7 M/s Centax Publications (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New - 3

8 Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)

9 Raghuraman's 44-B, Regal Flat, Shipra Suncity, Indirapuram - 201010, Ghaziabad, DT, U.P.

10 Nidheshak publications, I.P.Estate, new Delhi

11 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026

12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thvagaraya Road, T. Nagar, Chennai

13 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kuni, New Delhi - 110070

14 Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-1

15 Office Copy

16 Guard file


Assistant Registrar
(SM Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K Puram, New Delhi-110066

COURT-IV

Date of hearing: 24.9.2008

Appeal No.E/3029/2006
E/CO/226/2008

[Arising out of Order-in-Appeal No. 58-CE/ALLD/2006 dated 26.5.2006 passed by the Commissioner (Customs), Central Excise & Service Tax (Appeals), Lucknow]

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 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?
-

CCE, Lucknow

Appellant/Applicant
(Shri Sansar Chand, DR)

Vs.

M/s Shivangi Metal Industries

Respondent
(None)

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

Final Order No. 1415 / 08-sm (BR)

Per: P.K. Das

In this case, the Central Excise Officers visited the Respondent's factory and detected shortage of finished goods during stock verification. The Respondent deposited the ~~duty~~ ^{amount} upon detection. The Adjudicating Authority confirmed the demand of duty of Rs. 84,049.00 and appropriated the said amount as deposited by them and also imposed the penalty of equal amount under rule 25 of Central Excise Rules, 2002 read with Section 11 AC of the Central Excise Act, 1944. Commissioner (Appeals) set-aside the penalty. Hence, the Revenue filed this appeal before the Tribunal.

2. After hearing the Id. DR and on perusal of the records, it is seen from the Adjudication order that Shri Arvind Agarwal, Director ~~from~~ the Respondent factory in his statement stated that shortage of Brass Ingots is on account of accumulated weight loss. I do not find any material that the goods were cleared clandestinely. So, imposition of penalty under Section 11 ~~AA~~ ^C of Central Excise Act, 1944 is not warranted. In view of that, I do not find any reason to interfere the order of the Commissioner (Appeals). The appeal filed by the Revenue is rejected.

(Dictated and pronounced in the open court).

(P.K. Das)
Member (Judicial)

K. Gupta