

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/2703/2006 – SM[BR]

Date 17/11/2008

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

To :
CCE KANPUR
117/7, SARVODAYA NAGAR
KANPUR
CCE KANPUR

Appellant

Vs
Respondent

M/S REKAN EXTRUSION P LTD

I am directed to transmit herewith a certified copy of **Final order No. 1456 / 2008 - SM[BR]** dated 7.11.2008
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 REKAN EXTRUSION P LTD

(STEEL DIVISION) E-24-26, UPSIDC, INDUSTRIAL AREA
BARUA, SUMERPUR, HAMIRPUR

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 Puniabi Bagh, New Delhi - 110026

12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagarava 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
NEW DELHI**

PRINCIPAL BENCH – COURT NO. 1

Excise Appeal No. 2703 of 2006

(Arising out of Order-in-Appeal No. 190-CE/APPL./KNP/2006 dated 18.05.2006
passed by the Commissioner of Customs & Central Excise (Appeals), Kanpur).

DATE OF HEARING : 07.11.2008

DATE OF DECISION : 07.11.2008

FOR APPROVAL AND SIGNATURE :

HON'BLE MS. JYOTI BALASUNDARAM, VICE-PRESIDENT

1.	Whether Press Reporters may be allowed to see the order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982 ?	No
2.	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not ?	No
3.	Whether their Lordships wish to see the fair copy of the Order ?	Seen
4.	Whether Order is to be circulated to the Departmental Authorities?	Yes

CCE, Kanpur

...

Appellant

(Rep by Sh. R.K. Verma, DR)

versus

M/s Rekan Extrusion Pvt. Ltd. ...

Respondent

(Rep. by NONE)

CORAM : HON'BLE MS. JYOTI BALASUNDARAM, VICE-PRESIDENT

Final ORDER NO. 1456/08-SM (B R)

PER JYOTI BALASUNDARAM :

In this case the duty demand of Rs. 57,939/- has been confirmed on shortage of runners & risers and small channels (raw-materials and finished goods) and penalty of an amount equal to duty has been imposed by the Assistant Commissioner. The penalty amount has been reduced to Rs. 20,000/- by the Commissioner (Appeals); hence this appeal by the Revenue which seeks that penalty equal to duty, as imposed by the adjudicating authority, be restored.

2. I have heard the learned DR and perused the records. None appears for the respondent in spite of notice. I find that it has been held by the Hon'ble Delhi High Court in the case of **K.P. Pouches (P) Ltd. vs Uoi & Anr.**, 2008 (85) RLT 483 (RLT), that where entire duty is paid before issue of show cause notice, penalty equal to 25% of duty is leviable in terms of Section 11-AC of the Central Excise Act, 1944. In this case there is no dispute, that whether the duty amount was paid before the issue of show cause notice. Penalty of Rs. 20,000/- as imposed by the Commissioner (Appeals) is in excess of 25% of duty leviable under the provisions of the Statute. (However, there is no appeal by the assessee against the penalty), I accordingly uphold the impugned order and reject the appeal.

(Dictated and pronounced in the open Court on the 7th day of November, 2008)

(JYOTI BALASUNDARAM)
VICE-PRESIDENT