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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. C/145 /2008-SM[BR] Date 23/05/2008

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

To :
C.C. (PREVENTIVE) AMRITSAR
CUSTOM HOUSE, CENTRAL REVENUE BUILDING,
THE MALL, AMRITSAR 143001.

C.C. (PREVENTIVE) AMRITSAR Appellant
Vs
M/S JAI STEELS Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 812 /2008 –SM[BR] dated 12.5.2008

passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
   M/S JAI STEELS
   AMLOH ROAD, MANDI GOBINDGARH.
2. Adv. / Consult SHRI SAURABSH KAPOORADV.
   11, YADAVINDRA COLONY THE MALL, PATIALA[PB]
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 Publictions (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
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), Thyagaraya Road, T. Nagar,Chennai 60017
13. Taxindiaonline.com Pvt.Ltd, 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
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Customs Appeal No. 145 of 2008

(Arising out of Order-in-Appeal No. 131/CUS/APPL/LDH/2007 dated 16.10.2007 passed by the Commissioner of Customs & Central Excise (Appeals), Jalandhar).

DATE OF HEARING : 12.05.2008
DATE OF DECISION : 12.05.2008

FOR APPROVAL AND SIGNATURE :

HON'BLE MR. JUSTICE S.N. JHA, PRESIDENT

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?	

CC (Prev.), Amritsar .... **Appellants**
(Rep. by Sh. A.K. Rastogi, DR)

VERSUS

M/s Jai Steels .... **Respondent**
(Rep by Sh. S. Kapoor, Adv.)

CORAM : HON'BLE MR. JUSTICE S.N. JHA, PRESIDENT

Final **ORDER NO.** 812/08-SM(BR) Dtd. 12.5.08

PER JUSTICE S.N. JHA :

This appeal by the Revenue is directed against the order of Commissioner (Appeals) reducing the redemption fine from Rs. 1.50 lacs to Rs. 50,000/- and penalty from Rs. 70,000/- to Rs. 20,000/-, and thus modifying the order-in-original of the Additional Commissioner.

2. The Additional Commissioner had ordered confiscation of the goods, viz., 19.780 MTs of CR Sheets in Coil form with an option to the respondent to redeem the goods on payment of fine of Rs. 1.50 lacs in addition to payment of duty of Rs. 1,19,894/- and also imposed penalty of Rs. 70,000/- holding that the respondents had mis-declared the imported goods. The respondents had declared the goods in the bill of entry as Heavy Melting Scrap. On examination, the goods turned out to be CR Sheets in Coil form attracting higher rate of duty compared to heavy melting scrap. The case of the respondent is that it had placed order for import of Heavy Melting Scrap and in the pre-inspection certificate also the goods was mentioned as Heavy Melting Scrap, but due to apparent mistake on the part of the foreign supplier, instead of Heavy Melting Scrap, CR Sheets in Coil form were exported. As the respondent described the

goods in accordance with the import documents, unaware of the contents of the consignment, in good faith, no penal action should be taken against them. The case of the respondent was not accepted by the Additional Commissioner and while directing confiscation of the goods, they were held liable under Section 111(m) and 112 of the Customs Act. The Commissioner more or less came to the same conclusion, but held that mis-declaration was not intentional and accordingly reduced the amounts of redemption fine and penalty. I too am of the view that the respondent had acted in a bonafide manner on the basis of information provided by the overseas supplier and the so called mis-declaration was not intentional.

3. The Commissioner has observed that as per proviso to Section 125(1) of the Act, the fine in lieu of confiscation not to exceed the market price of the goods confiscated, less in the case of imported goods, the duty charged thereon. He also observed that the redemption fine is determined normally on the basis of margin of profit which can be calculated by a well settled formula concerning the market price minus landed cost and expenses incurred on clearing, loading, transportation, unloading and godown charges etc. Keeping in view these parameters, the Commissioner found that there was not much margin of profit left after adding the additional differential duty paid on the

assessable value. In these premises, he reduced the redemption fine to Rs. 50,000/- and penalty to Rs. 20,000/-. It is not in dispute that the respondents have already paid the duty on the loaded assessable value of the goods and taken delivery thereof on payment of redemption fine. The penalty also stands paid. The duty leviable on the import of CR Sheets in Coil form having been realized from the respondent, it is clear that there is no loss of revenue to the exchequer. Keeping in view the facts and circumstances of the case, the order of the Commissioner reducing the redemption fine and penalty does not warrant any interference by the Tribunal.

4. I find no merit in this appeal and is accordingly dismissed.

(Dictated and pronounced in the open Court on the 12^{TH} day of May, 2008)

(JUSTICE S.N. JHA)
PRESIDENT

Golay