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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/3653/2006-SM[BR] Date 06/06/2008

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

To :
C.C.E.CHANDIGARH

PLOT NO 19, SECTOR 17-C, CHANDIGARH.

C.C.E.CHANDIGARH Appellant

Vs

M/S RADHIKA STEEL INDUSTRIES Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 876 /2008 –SM[BR] dated 7.4.2008

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 RADHIKA STEEL INDUSTRIES

   MANDI GOBINDGARH.
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 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)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH NEW DELHI, COURT NO. III

Excise Appeal No.3653 of 2006-SM (BR)

[Arising out of Order-in-Appeal No.785/CE/CHD/2006 dated 28.8.2006 passed by the Commissioner of Central Excise (Appeals), Chandigarh]

Date of Hearing/ Decision:7.4.2008

For approval and signature:

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

1. Whether Press Reporters may be allowed to see 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, Chandigarh

...Appellants
[Rep. by Shri Sumit Kumar, DR]

Vs.

M/s. Radhika Steel Industries

...Respondent
[Rep. by None.]

CORAM: **Mr. P.K. Das, Member (Judicial)**

Final Order No.276/08-SM(BR)/Dated:7.4.2008

Per P.K. Das:

Heard the ld. DR on behalf of the Revenue. None appeared on behalf of the Respondent in spite of issue of notice.

2. The relevant facts of the case, in brief, are that on 9.2.2005, the Central Excise Officers visited the Respondent's factory and ascertained excess balance of finished goods against RG-I records. The Proprietor of the Respondent accepted the excess quantity. Thereafter, Shri Suresh Kumar, Proprietor of the Respondent by letter dated 14.2.2005 had retracted a statement. The Adjudicating Authority confiscated the seized goods and imposed redemption fine of Rs.2,00,000/- and also imposed a penalty of Rs.90,317/- under Rule 25 of the Central Excise Rules, 2002 upon the Respondent. The Commissioner (Appeals) set aside the Adjudication Order. Revenue filed this appeal before the Tribunal.

3. After hearing the ld. DR and on perusal of the records, I find that the Commissioner (Appeals) set aside the Adjudication Order on the ground that there was no actual weighment of the goods, rather it was only an eye estimation. It has been observed by the Commissioner (Appeals) that there is no evidence on record to show that the goods were actually weighed. On perusal of the Adjudication Order, I find that physical verification chart was prepared on the spot and Proprietor of the Respondent signed the same in token of its correctness and the chart was also signed by the Central Excise Officers with two independent witnesses. Hence, it appears that the Commissioner (Appeals) set aside the Adjudication Order without considering the evidences on record. Therefore, the order of the Commissioner (Appeals) is set aside and the

matter is remanded back to the Commissioner (Appeals) to decide afresh after considering the evidences. Needless to say that the Commissioner (Appeals) shall provide proper opportunity of hearing to the Respondent before decision. The appeal is allowed by way of remand.

Order dictated & pronounced in open court on 7.4.2008.

(P.K. Das)
Member (Judicial)

Ckp.