

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/1371/2006-SM[BR]

Date 16/06/2008

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

To :
C.C.E. GHAZIABAD

C.G. O. COMPLEX-II, KAMLA NEHRU NAGAR,
GHAZIABAD 201302

C.C.E. GHAZIABAD

Appellant

Vs

Respondent

M/S SEA SHELL CERAMIC INDIA P LTD.

I am directed to transmit herewith a certified copy of **Final order No. 967 /2008 –SM[BR]** dated 3.4.2008

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 SEA SHELL CERAMIC INDIA P LTD.

30-31, VILL-CHHAPRAULA, G.T. ROAD,
GHAZIABAD

2. Adv. / Consult SHRI RAJESH CHHIBBER ADV.

FA-9, NEW KAVI NAGAR GHAZIABAD-201002

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 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
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No.1371 /2006SM

(Arising out of order in appeal No.14/CE/Gzb/2006 dated 27.1.2006 passed by the Commissioner of Central Excise (Appeals), Ghaziabad)

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?

M.

CCE Ghaziabad

Appellants
(Rep. by Shri B.S. Suhag, DR)

Vs

M/s Sea Shell Ceramic (India) Pvt Ltd Respondent
(Rep. by Shri Rajesh Chhibber, Advocate)

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

Date of Hearing:3.4.2008

Order No. **967** /2008-SM(BR)

Per P.K. Das:

The Revenue filed this appeal against the order of Commissioner (Appeals) whereby penalty under Rule 25 of Central Excise Rules, 2002

posed for failure to discharge the duty liability under Rule 8 of Central
cise Rules, 2002 was set aside.

After hearing both the sides and on perusal of the record, I find that
the Tribunal in the case of Condor Power Product Pvt Ltd Vs CCE reported
2007 (210) ELT 137 (T-Del) held that delay of payment of duty under
Rule 8 cannot be treated as evasion of duty as the assessee already disclosed
duty liability by filing return in time. It has been held that the assessee had
not disputed the liability to pay tax and there is no intention to evade
payment of duty. In view of the decision of the Tribunal, I do not find any
merit in the appeal of the Revenue. Accordingly, the appeal filed by the
Revenue is rejected.

(Order dictated and pronounced in the open Court).

PS*

(P.K. Das)
Member(Judicial)