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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/3657/2006-SM[BR] Date 20/06/2008

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

To :
C.C.E.BHOPAL
48, ADMINISTRATIVE AREA, AREA HILLS,
HOSHANGABAD ROAD, BHOPAL.

C.C.E.BHOPAL Appellant

Vs

M/S DILIP RAI Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 971 /2008 -SM[BR] dated 26.5.2008 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 DILIP RAI

   S/O LATE SHRI RATAN RAI, IN FRONT OF SARDAR PATEL SCHOOL, DHARMPURA WARD NO 5, DAMOH(MP)
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, PRINCIPAL BENCH, NEW DELHI

Excise Appeal No.3657 of 2006-SM (BR)

[Arising out of Order-in-Appeal No.189-CE/BPL/2006 dated 21.08.2006 passed by the Commissioner of Central Excise (Appeals), Bhopal (M.P.)]

Date of Hearing/ Decision:26.5.2008

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 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? :

NO

CCE, Bhopal ...Appellants
[Rep. by Shri B.S. Suhag, DR]

Vs.

M/s. Dilip Rai ....Respondent
[Rep. by None.]

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

FINAL Order No...971/2008.........../Dated:26.5.2008

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 the Respondents are engaged in the manufacture of handmade Biris classifiable under sub-heading No.2404.31 of the Schedule to the Central Excise Tariff Act, 1985. The Central Excise Officers during the course of surveillance on 19.02.2005 noticed that the Respondent had been manufacturing and clearing the Biris without obtaining Central Excise Registration and without payment of duty. It is seen that the Respondent is a small unit. They admitted the lapses and paid the duty thereon. The Adjudicating Authority seized the Biris valued at Rs.42,376/- and imposed redemption fine of Rs.500/- and penalty of Rs.1,000/- under Rule 25 of the Central Excise Rules, 2002. Revenue filed appeal before the Commissioner (Appeals), whereby redemption fine and penalties were enhanced to Rs.1,000/- and Rs.2,000/- respectively.

3. Ld. DR submits that Rule 25 of the Rules prescribed minimum penalty of Rs.10,000/- and, therefore, penalty should be imposed for Rs.10,000/-. He further submits that considering the value of the goods, redemption fine should be enhanced.

4. After hearing the ld. DR and on perusal of the records, I find that the Commissioner (Appeals) enhanced the penalty and redemption fine, after considering the facts and circumstances of the case. Therefore, I do not find any reason to interfere the order of the Commissioner (Appeals). I also noted that the Larger Bench of the Tribunal in the case of CCE, Bhopal Vs. Rama Wood Craft (P) Ltd. – 2008 (85) RLT 827 (CESTAT-

LB) held that there is no minimum penalty prescribed under the Rule 25 of the Rules. Accordingly, the appeal filed by the Revenue is rejected.

Order dictated & pronounced in open court on 26.5.2008.

(P.K. Das)
Member (Judicial)

Ckp.