

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/3669/2006-SM[BR]

Date 20/06/2008

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

To :
M/S BHARAT ISPAT
H-2, MODEL TOWN, DELHI-I
M/S BHARAT ISPAT

C.C.E. DELHI I

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of **Final order No 981 /2008 –SM[BR]**. dated 3.6.2008
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar

(SM Appeal Branch)

Copy to :

1. Respondent

C.C.E. DELHI I

C.R. BUILDING, I.P. ESTATE, NEW DELHI 110002

2. Adv. / Consult

MR.SHRI. BHAGWATI PRASAD, ADV.

111, HANS BHAVAN, 1, B.S.Z MARG, N.DELHI.

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)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, NEW DELHI
PRINCIPAL BENCH NEW DELHI**

Excise Appeal No.3669 of 2006 –SM (BR)

[Arising out of Order-in-Appeal No.24/CE/DLH/2003 dated 4.2.2003 passed by the Commissioner of Central Excise (Appeals), New Delhi]

Date of Hearing/ Decision:3.6.2008

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? | : | } M. |
| 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/s. Bharat Ispat

...Appellants

[Rep. by Shri B. Prasad, Advocate]

Vs.

CCE, Delhi-I

....Respondent

[Rep. by Shri S. Gautam, DR]

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

Final Order No. 981/08 SM CBR /Dated: 3.6.2008

Per P.K. Das:

Heard both sides and perused the records.

2. The Commissioner (Appeals) rejected the appeal filed by the Appellants for non-compliance of the provisions of Section 35 F of the Central Excise Act, 1944.

3. It is seen from the Memo of Appeal filed by the Appellant that by Interim Order dated 20th March, 1997, the Commissioner (Appeals) ordered for stay of recovery of the demand against the Adjudication Order No.84/96-97 dated 12.9.1996 passed by the Asstt. Commissioner of Central Excise, MOD-III, New Delhi. In the impugned order dated 4.2.2007, the Commissioner (Appeals) observed that the Appellant declared in their appeal that they have paid/deposited the amount but they have not proved so, even not filed an application for waiver of pre-deposit of dues under Section 35 F of the Act.

4. It is seen from the record that the Commissioner (Appeals) by Interim Order dated 20.3.1997 ordered for stay of recovery of dues against the Adjudication order. So, the Order of the Commissioner (Appeals) rejecting for non-compliance of Section 35 F of the act is not sustainable. Accordingly, the order of the Commissioner (Appeals) is set aside. The matter is remanded back to the Commissioner (Appeals) directing to decide the appeal on merit in accordance with law. The appeal is allowed by way of remand.

Order dictated & pronounced in open court on 3.6.2008.

(P.K. Das)
Member (Judicial)

Ckp.