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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/3610/2006-SM[BR] Date 25/06/2008

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

To :
C.C.E.DELHI III,GURGAON
DELHI-III, UDYOG MINAR, VANIYA NIKUNJ, UDYOG VIHAR, PHASE-V, GURGAON (HARYANA)

C.C.E.DELHI III,GURGAON Appellant

Vs

STAR ALUBUILD PVT. Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 991 /2008 –SM[BR] dated 8.4.2008 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 STAR ALUBUILD PVT.
BEGUMPUR KHATOLA, 39 KM MILESTONE, GURGAON.
2. Adv. / Consult SHRI MANISH PANDA, ADV.
B-6/10, SAFDARJUING ENCLAVE NEW DELHI -29

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
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No.3610/06-SM

(Arising out of order in appeal No.236/NS/GGN/06 dated 11.8.06 passed by the Commissioner of Central Excise (Appeals), Gurgaon)

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?

No.

CCE, Delhi-III — Appellant
(Rep. by Shri S.L. Meena, DR)

Vs

M/s Star Alubuild (P) Ltd — Respondent
(Rep. by Shri Manish Panda, Advocate)

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

Date of Hearing: 8.4.08

Final Order No. 991 /2008-SM(BR)

Per P.K. Das:

Heard both the sides and perused the records.

2. The relevant facts of the case as per records, in brief, are that on 22.3.2005, the Central Excise officers visited the respondents factory and

conducted stock verification. The officers ascertained excess stock of finished goods and raw materials against the balance of statutory records which were duly seized by them. The Adjudicating Authority confiscated the seized finished goods and raw materials valued at Rs.1,75,104/- and Rs. 3,23,515/- respectively and imposed redemption fine of Rs. 85,000/- and imposed penalty of Rs.20,000/-. Commissioner (Appeals) set aside confiscation of goods and reduced penalty to Rs. 10,000/-. Revenue filed this appeal.

3. After hearing both the sides and on perusal of the record, I find that the Tribunal in the case of Unimark Remedies Ltd Vs CCE Vapi reported in 2006 (204) ELT 49 held that there is no provision under Central Excise law for confiscation of unaccounted raw material but penalty is imposable for non-maintenance of record. Further, Commissioner (Appeals) observed that the duty involved on the seized finished goods is Rs. 24,297/- which are to be supplied to builders on contract basis and therefore, refrained from imposing redemption fine on finished goods.

4. I find that the Commissioner (Appeals) had properly considered while setting aside confiscation and redemption fine and reduced the penalty for non-maintenance of record. I do not find any reason to interfere with the order of Commissioner (Appeals). Accordingly, the appeal filed by the revenue is rejected.

(Order dictated and pronounced in the open Court).

(P.K. Das)
Member(Judicial)

MPS*