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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/3830/2006-SM[BR] Date 03/07/2008

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

To :
M/S NAINKO EXIM (P) LTD.
C-14, SECTOR 59, NOIDA

M/S NAINKO EXIM (P) LTD. Appellant
Vs
C.C.E. NOIDA Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 1038 /2008 -SM[BR] dated 29.5.2008 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
   C.C.E. NOIDA
   B-123, SECTOR 5, NOIDA(UP)
2. Adv. / Consult
   MR.R.S. SHARMA, ADV.,
   C-9/9656, VASANT KUNJ, NEW DELHI 110070
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. 3830/06-SM

(Arising out of order in appeal No.126/CE/Appl/Noida/06 dated 29.8.06 passed by the Commissioner of Central Excise (Appeals), Noida)

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.

M/s Nainko Exim (P) Ltd — Appellant (Rep. by none)

Vs

CCE, Noida — Respondent (Rep. by Shri A.K. Rastogi, DR)

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

Date of Hearing: 29.5.08

Final

Order No. 1038 /2008-SM(BR)

Per **P.K. Das**:

None appeared on behalf of the Appellants. It is seen from the record that the notice of hearing was returned back by the postal authorities with the remark "Company Closed".

2. Heard the learned DR on behalf of the Revenue and perused the record.

3. The Appeal relates to rejection of refund claim of duty of Rs. 4,483/- and claim of interest. I~~t is seen that th~~e Adjudicating Authority sanctioned refund claim of Rs. 81,33,805/- against the claim of the appellants for Rs. 81,38,288/-, the differential amount comes to Rs. 4,483/-. Both the authorities below observed that the Appellants failed to produce the relevant invoice on which credit was taken against the said amount of Rs.4,483/-. In the Memo of Appeal before this Tribunal, the Appellants contended that rejection of amount of Rs. 4,483/- by the Adjudicating Authority is without issue of show cause notice and grant of personal hearing. I find from the record that the Appellants appeared before the Commissioner (Appeals) on 2.8.06 and failed to produce any evidence.

4. Regarding payment of interest, I find that the claim was filed on 9th September 2005 without any documents. Subsequently, the Appellants revised the refund claim on 5th April, 2006 and refund was given on 9th June, 2006. It is seen from the order of the Commissioner (Appeals) that the Range officers requested a number of times to the Appellants to file the documents for the purpose of settling the claim. This fact was not disputed by the Appellants in their Appeal. It is noted that the Appellants themselves revised the claim on 5th April, 2006 and the amount was paid on 9th June,

2006 which is within the stipulated period as provided under the Board Circular No. 670/61/02-CX. dated 1.10.02. So, the claim of interest was rightly rejected.

5. In view of the above discussion, I do not find any merit in the Appeal. The appeal is rejected.

(Order dictated and pronounced in the open Court).

(P.K. Das)
Member(Judicial)

MPS*