(14)

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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. C/416 /2008-SM[BR] Date 08/07/2008

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

To :
M/S SUPER CASSETTES INDUSTRIES LTD.

C-5, PHASE-II, NOIDA,
DISTT. GAUTAMBUDH NAGAR,
UTTAR PRADESH.

M/S SUPER CASSETTES INDUSTRIES LTD. Appellant

Vs

C.C. NEW DELHI (IMPORT & GENERAL) Respondent

I am directed to transmit herewith a certified copy of **Final order No 1053 /2008 -SM[BR]**. dated 30.6.2008 passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

   C.C. NEW DELHI (IMPORT & GENERAL)

   NEW CUSTOM HOUSE, NEAR I.G.I. AIRPORT, NEW DELHI 110037.

2. Adv. / Consult SHRI PRABHAT KUMAR ADV.

   N/V; ----------------------------

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,

West Block No.2, R.K Puram, New Delhi-110066

COURT-IV

Date of hearing: 30.6.2008

Central Customs Appeal No. 416/2008-SM(BR)

[Arising out of the order-in-Appeal No.CC(A)/Cus/72/ICD/2008/899 dated 12.02.2008 passed by the Commissioner of Customs, New Delhi.]

For Approval and Signature:

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

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 27 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	nd.
3	Whether their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

Appellants | | Respondent
M/s Super Cassettes Industries Ltd. vs. C.C.E New Delhi

Appearance:

Shri Prabhat Kumar, Advocate for the Appellant
Shri B.S. Suhag, Authorized Departmental Representative (DR) for the Revenue

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

FINAL Order No. 1053/2008-SM(BR)

Per: P.K. Das

After hearing both the sides, and on perusal of records I find that the appellant filed this appeal against rejection of refund claim of Rs. 1,63,134.00 on short received of imported goods. The Commissioner (Appeals) observed that the shortage of goods was detected at the appellant premises and they have not submitted any certificate/verification report from the jurisdictional Central Excise authority. The ld. Advocate submits that the appellant had not availed Cenvat Credit ~~from~~ on the shortage of goods. He further submits that there are several evidences namely Air Way/bill, packing lists, correspondence lists foreign suppliers, payments documents etc. are indicating the shortage of goods. He further submits that the appellant would like to produce the certificate from the Central Excise authorities as they have not availed Cenvat Credit of shortage of goods. He also submits that no opportunity was given to produce the records.

2. In view of the above submissions, I find that the appellant should be given opportunity to produce the evidences before the authorities to substantiate the shortage of goods to meet the end of

justice. Accordingly, the impugned order is set aside and the matter is remanded back to the Commissioner (Appeals) to decide afresh after considering the evidences as placed by the appellant. Needless to say that the Commissioner (appeals) shall give proper opportunity of hearing before passing the order. The appeal is allowed by way of remand.

Order dictated & pronounced in open court.

(P.K. Das)
Member (Judicial)

K. Gupta