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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/3016/2006-3017/2006-SM[BR] Date 25/08/2008

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

1. RAGHURAJ SINGH AUTH SINGH
2. SMT BEENA SACHDEVA DIRECTOR
M/S TRELA FOOTWEAR EXPORTS P LTD,D-36,SITE-C,INDUSTRIAL AREA,SIKANDRA,AGRA(UP)

RAGHURAJ SINGH AUTH SINGH Appellant

Vs

C.C.E. KANPUR Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 1194 – 1195 /2008 –SM[BR] dated 8.8.2008 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. KANPUR
117/7,SARVODAYA NAGAR,KANPUR.
2. Adv. / Consult
MR.K.K ANAND
A-5,BASEMENT,LAJPAT NAGAR-III NEW DELHI-24
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. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15
15. Office Copy
16. Guard file

Assistant Registrar
(SM Appeal Branch)

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

PRINCIPAL BENCH NEW DELHI

Excise Appeals No.3017 & 3016 of 2006-SM (BR)

[Arising out of common Order-in-Appeal No.164-165/CE/KNP/2006 dated 26.04.2006 passed by the Commissioner of Central Excise (Appeals), Kanpur]

Date of Hearing/ Decision:08.08.2008

For approval and signature:

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

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.

(1) Beena Sachdeva, Director
(2) Raghuraj Singh, Authorised Signatory ...Appellants
M/s. Trela Footwear Exports Pvt. Ltd.
[Rep. by Ms. Asmita Nayak, Advocate]

Vs.

CCE, Raipur ...Respondent
[Rep. by Shri Sansarchand, DR]

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

Final Order No.1194-1195/2008 SM (BR)/Dated:8.8.2008

<u>Per P.K. Das</u>:

Both the appeals are arising out of common order and, therefore, both are taken up together for disposal.

2. Penalties were imposed Rs.25,000/- and Rs.10,000/- respectively on both the Appellants.

2. After hearing both the sides and on perusal of the records, it is seen that there was a demand of duty and penalty of equal amount on the main Appellant M/s. Trela Footwear Exports Pvt. Ltd. The main Appellant deposited the entire amount of duty before issue of show cause notice and the Commissioner (Appeals) set aside the penalty imposed under Section 11 AC of the Central Excise Act, 1944. The Revenue challenged the said order before the Tribunal. By Final Order No.1548-1549/2007-SM (BR) dated 26.09.07, the Tribunal allowed the Revenue appeal and observed that their main Appellant removed the goods clandestinely and, therefore, penalty under Section 11 AC of the Act was rightly imposed.

3. In the present case, the penalties were imposed on the Appellants in connection with the said case. It appears from the show cause notice dated 23rd July, 2003 that the Appellant No.1, Director of the Company had given direction to the Appellant No.2, the Authorised Signatory, to issue challan against cash sales.

4. Ld. DR on behalf of the Revenue submits that the Appellant No.2 knowingly ~~cautiously~~ issued the challans and, therefore, the penalty is imposable upon him.

5. I find that Appellant No.1 issued direction for removing the goods clandestinely and the penalties imposed upon her is justified. Regarding imposition of penalty on the Authorised Signatory, I find that he is an

employee of the Company and carried out direction of the Director of the Company. So, the imposition of penalty on the Respondent No.2 is not proper. Accordingly, the appeal filed by the Appellant No.1 is rejected. Appeal of the Appellant No.2 is allowed with consequential relief.

Order dictated & pronounced in open court on 8.8.2008.

(P.K. Das)
Member (Judicial)

Ckp.