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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/2573/2006-SM[BR] WITH E/ CO/ 252 /2008 –SM[BR] Date 03/09/2008

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

To :
CCE,ALLHABAD
38, CIVIL LINES, M.G. MARG, ALLAHABAD

CCE,ALLHABAD Appellant
Vs
M/S ANJANI STEEL P LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 1256 / 2008 –SM[BR] dated 6.8.2008 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
   M/S ANJANI STEEL P LTD.
   SATHARIYA, JAUNPUR, (U.P.)
2. Adv. / Consult SHRI S.P.OJHA ADV.
   299 BAGHAMBARI HOUSE SCHEME ALLAHPUR ALLAHABAD
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 Appeal No.2573 of 2006-SM (BR)
With E/CO/252/08-SM (BR)

[Arising out of Order-in-Appeal No.47-CE/ALLD/2006 dated 11.05.2006 passed by the Commissioner of Central Excise (Appeals), Allahabad (U.P.)]

Date of Hearing/ Decision:06.08.2008

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? : No.
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, Allahabad (U.P.) ...Appellants
(Rep. by Shri S. Kumar, DR)

Vs.

M/s. Anjani Steel Pvt. Ltd. ...Respondent
[Rep. by Shri S.P. Ojha, Advocate]

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

Final Order No...1256/08-SM (BR)..../Dated:06.08.2008

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

The relevant facts of the case, in brief, are that the Respondents are engaged in the manufacture of hot rolled products of Iron and Steel falling under sub-heading No.7216.90, 7214.90 and 7211.19 of the Schedule to the Central Excise Tariff Act, 1985. The Respondents cleared the goods without payment of duty of Rs.15,297/-, which were manufactured prior to introduction of Section 3 A (Compounded Levy Scheme) of the Central Excise Act and subsequently debited the said amount with interest on 19.04.2002 and 23.10.2003. A show cause notice dated 1.3.2004 was issued proposing to impose penalty on them under Rule 173 Q of the erstwhile Central Excise Rules, 1944. The Adjudicating Authority dropped the proceedings. Revenue filed appeals before the Commissioner (Appeals), which was rejected. Hence, the Revenue filed this appeal before this Tribunal.

2. After hearing both the sides and on perusal of the records, the ld. DR submits that the present appeal involves the question of law as to whether penalty can be exempted under Section 11 A (2B) of the Central Excise Act, 1944 when the duty was paid before the enactment of the Finance Bill, 2001 in view of the statutory restriction provided under Section 11 A (2 C) of the said Act. I find that the Respondent deposited the duty before issue of show cause notice along with interest. A show cause notice proposed imposition of penalty under Rule 173Q of the erstwhile Central Excise Rules. The Commissioner (Appeals) observed that the Respondent without making any protest deposited the amount of duty probably being hit by limitation. In view of such findings of the

Commissioner (Appeals), imposition of penalty is not warranted. So, there is no need to decide the matter on the question of law as submitted by the ld. DR. ~~the question of law as submitted by the ld. DR~~. The appeal filed by the Revenue is rejected.

Order dictated & pronounced in open court on 6.8.2008.

(P.K. Das)
Member (Judicial)

Ckp.