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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/259 /2008-SM[BR]   Date 03/09/2008

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

To:
C.C. (PREVENTIVE) AMRITSAR
CUSTOM HOUSE, CENTRAL REVENUE BUILDING,
THE MALL, AMRITSAR 143001.
C.C. (PREVENTIVE) AMRITSAR   Appellant
Vs
M/S BANSAL ALLOYS & METAL LTD.   Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 1257 / 2008 –SM[BR] dated 4.8.2008 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
   M/S BANSAL ALLOYS & METAL LTD.
   MANDI GOBINDGARH, PUNJAB.
2. Adv. / Consult
   MR.KAMALJEET SINGH
   J-144, PATEL NAGAR -I,GHAZIABAD.
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

Customs Appeal No.259 of 2008-SM (BR)

[Arising out of Order-in-Appeal No.2/Cus/Appl/Ldh/2008 dated 4.1.2008 passed by the Commissioner of Central Excise (Appeals), Jalandhar]

Date of Hearing/ Decision:04.08.2008

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.		No
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?	:	yes

CC, Amritsar ...Appellants
(Rep. by Shri A.K. Rastogi, DR)

Vs.

M/s. Bansal Alloys & Metal Ltd. ...Respondent
[Rep. by Shri K.J. Singh, Advocate]

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

Final Order No.1257/08-SM (BR)/Dated:04.08.2008

Per P.K. Das:

The Revenue filed this appeal against the Order-in-Appeal dated 04.01.2008 passed by the Commissioner (Appeals), Jalandhar, whereby the appeal of the Respondent was allowed.

2. The relevant facts of the case, as per record, in brief, are that the Respondent purchased DEPB Scrips and had availed exemption from payment of customs duty on a consignment imported under Bills of Entries under Notification No.34/97-Cus dated 7.4.1997. The Adjudicating Authority confiscated the said goods and imposed redemption fine of Rs.75,000.00 and also demanded duty of Rs.78,242.00, but refrained from imposition of penalty on Respondent. He imposed penalty to other noticee(s). The Commissioner (Appeals) set aside the confiscation, redemption fine and demand of duty. Hence, the Revenue filed this appeal before the Tribunal.

3. After hearing both the sides and on perusal of the records, it is seen from the Adjudication Order that the Respondent purchased the freely transferable DEPB Scrips in a bona fide manner and utilised the same towards debit/exemption of duty. It has been observed by the Adjudicating Authority that the Respondent had not colluded with the exporter, who obtained the DEPB scrips by fraudulent means. So, no penalty was imposed upon the Respondent.

4. Ld. DR on behalf of the Revenue submits that it is a case of fraud and, therefore, demand of duty and confiscation are sustainable. I find that the demand of duty is for the extended period of limitation. There is no allegation of fraud, mis-statement, etc. on the part of the Respondent and, therefore, extended period of limitation is not applicable. It is seen

that the Commissioner (Appeals) passed the order following the decision of the Hon'ble Punjab & Haryana High Court in the case of Commissioner of Customs Vs. Leader Valves Ltd. reported in 2007 (218) ELT 349 (P&H). It is seen that the Hon'ble Supreme Court upheld the decision of the Hon'ble High Court as reported in 2008 (227) ELT A-29. I find that the present case is covered by the decision of the Hon'ble High Court. So, there is no infirmity in the order of the Commissioner (Appeals). Accordingly, the appeal filed by the Revenue is rejected.

Order dictated & pronounced in open court on 04.08.2008.

(P.K. Das)
Member (Judicial)

Ckp.