

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/125 /2007- SM[BR]

Date 05/09/2008

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

To :
C.C.E. CHANDIGARH
C.R.BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH.
C.C.E. CHANDIGARH

Appellant

Vs
Respondent

M/S D.P. TUBES (P) LTD.

I am directed to transmit herewith a certified copy of **Final order No. 1266 / 2008 -SM[BR]** dated 19.8.2008
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 D.P. TUBES (P) LTD.

VILL. SAIDPURA, BARWALA ROAD, DERABASSI.

2. Adv. / Consult

NONE

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 Publications (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -

8. Excise & Customs cases, B-37, Sector -I, 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

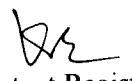
12. Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar, Chennai 60017

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.125 of 2007-SM (BR)

[Arising out of Order-in-Appeal No.1047/CE/CHD/06 dated 27.10.2006
passed by the Commissioner of Central Excise (Appeals), Chandigarh]

Date of Hearing/ Decision:19.08.2008

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? | : | 2 |
| 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 |
-

CCE, Chandigarh

....Appellants

[Rep. by Shri S. Gautam, DR]

Vs.

M/s. D.P. Tubes (P) Ltd.

...Respondent

[Rep. by None.]

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

Final Order No. 1266/08-SM(BR) Dated: 19.08.2008

Per P.K. Das:

After hearing ld. DR and on perusal of the records, it is seen that the Adjudicating Authority confirmed the demand of duty of Rs.16,559/- and appropriated the said amount as deposited by the Respondent before issue of the show cause notice. He also imposed penalty of equal amount

under Rule 25 of the Central Excise Rules, 2002 read with Section 11 AC of the Central Excise Act, 1944. The Commissioner (Appeals) set aside the penalty and, therefore, Revenue filed this appeal.

2. On perusal of the Adjudication Order, I find that the Central Excise Officers detected shortage of raw materials during stock verification. Shri H.S. Cheema, Factory Manager of the Respondent accepted the shortage and debited the duty on the same day. There is no material placed by the Revenue that the shortage quantity of raw materials was cleared clandestinely. Therefore, penalty under Section 11 AC of the ACT is not warranted. Accordingly, I do not find any reason to interfere the order of the Commissioner (Appeals). The appeal filed by the Revenue is rejected.

Order dictated & pronounced in open court on 19.8.2008.

(P.K. Das)
Member (Judicial)

Ckp.