

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/815 /2007 – SM[BR]

Date 25/11/2008

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

To :
C.C.E, KANPUR
117/7, SARVODAYA NAGAR, KANPUR.
C.C.E, KANPUR

Appellant

Vs
Respondent

HILITE GLASS PVT. LTD.

I am directed to transmit herewith a certified copy of **Final order No. 1504 / 2008- SM[BR]** dated 24.10.2008
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

HILITE GLASS PVT. LTD.

C-1 TO 3, INDUSTRIAL ESTATE, FIROZABAD.

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 - 3

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), Thyagarava Road, T. Nagar, Chennai

13 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kuni, New Delhi - 110070

14 Easy Service Tax Online Dot Com Pvt.Ltd.407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-1

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

Appeal No.E/815 of 2007-SM (BR)

[Arising out of Order-in-Appeal No.10-CE/APPL/KNP/2007 dated
24.01.2007 passed by the Commissioner of Central Excise (Appeals),
Kanpur]

Date of Hearing/ Decision:24.10.08

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?
 3. Whether Their Lordships wish to see the fair copy
of the Order?
 4. Whether Order is to be circulated to the Departmental
authorities?
-

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CCE, Kanpur

...Appellants

[Rep. by Shri S.K. Bhaskar, DR]

Vs.

M/s. Hi Lite Glass Pvt. Ltd.

...Respondent

[Rep. by None.]

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

Final Order No. 1504/08-SM(BR) /Dated:24.10.2008

Per P.K. Das:

After hearing both the sides and on perusal of the records, it is seen
that the Central Excise Officers visited the Respondent's factory and
conducted stock verification. The said officers ascertained shortage of the

finished goods. The Respondent immediately deposited the duty on the shortage amounting to Rs.1,02,098/-. The Adjudicating Authority confirmed the demand of duty and appropriated the amount as deposited by the Respondent and also imposed penalty of equal amount under Section 11 AC of the Act, 1944. The Commissioner (Appeals) set aside the penalty. Hence, the Revenue filed this appeal.

2. On perusal of the records, it is seen from the order of the Commissioner (Appeals) that the clandestine removal has been established. In view of the above finding, I find that the penalty under Section 11 AC is warranted. The Hon'ble Delhi High Court in the case of Commissioner of Central Excise Vs. Malbro Appliances Pvt. Ltd. – 2007 (208) ELT 503 (Delhi) held that first proviso to Section 11 AC of the Central Excise Act, 1944 is providing for penalty of 25%, if duty demanded within 30 days. In the present case, the Respondent deposited the duty before issue of the show cause notice. So, the order of the Commissioner (appeals) is set aside. The order of the Adjudicating Authority is restored and penalty is reduced to Rs.25,500/- (Rupees Twenty Five Thousand Five Hundred only). The appeal is disposed of in the above terms.

Order dictated & pronounced in open court on 24.10.2008.

(P.K. Das)
Member (Judicial)

Ckp.