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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/3127/2006 - SM Date 01/12/2008

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

To :
M/S TRADING ENGINEERS(INTERNATIONAL) LTD
10 KM DELHI ROAD,SAHARANPUR
247001

M/S TRADING ENGINEERS(INTERNATIONAL) LTD Appellant
Vs
C.C.E.MEERUT I Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1558 / 2008- **SM[BR]** dated **25.11.2008**

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.MEERUT I
MANGAL PANDEY NAGAR,MEERUT.
2. Adv. / Consult
MR.AALOK ARORA, ADVOCATE
82-MISSION COMPOUND, SAHARANPUR-247001 (U.P.)

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 - 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), Thyagaraya Road, T. Nagar,Chennai
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-1
15 Office Copy
16 Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. 1

Excise Appeal No. 3127 of 2006

(Arising out of Order-in-Appeal No. 83-CE/MRT-I/2006 dated 20.06.2006 passed by the Commissioner of Customs & Central Excise (Appeals), Meerut).

DATE OF HEARING : 25.11.2008
DATE OF DECISION : 25.11.2008

FOR APPROVAL AND SIGNATURE :

HON'BLE MS. JYOTI BALASUNDARAM, VICE-PRESIDENT

1.	Whether Press Reporters may be allowed to see the order for publication as per Rule 27 of the 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 ?	Yes
3.	Whether their Lordships wish to see the fair copy of the Order ?	Seen
4.	Whether Order is to be circulated to the Departmental Authorities?	Yes

M/s Trading Engineers (International) Ltd. .... Appellant
(Rep by Sh. Alok Arora, Adv.)

versus

CCE, Meerut .... Respondent
(Rep. by Sh. R.K. Saini, DR)

CORAM : HON'BLE MS. JYOTI BALASUNDARAM, VICE-PRESIDENT

Final ORDER NO. 1558/08-SM(BR)

PER JYOTI BALASUNDARAM :

The lower appellate authority has confirmed a demand of Rs. 25,487/- and imposed a penalty of Rs. 25,000/- on Hex Bolt, Leaf Spring, Transformer type 3067 and charger battery 2 KW cleared without payment of duty on the strength of job work challan without any proof of receipt back in their factory during the permissible period of 180 days.

2. I have heard both sides. I find that the relied upon document no. 4 to the show cause notice clearly shows that Leaf Spring cleared under challan no. 6 dated 26.06.2001 was received back in the appellants' factory on the next date, namely, 27.06.2001 and involving duty of Rs. 4,367/-; that Transformer type 3067 cleared under challan no. 11 dated 11.12.2001 was received back in the appellants' factory on 23.04.2002 and involving duty of Rs. 2,560/-. As regards Hex Bolt covered by challan no. 5 dated 25.05.2001, admittedly, there is no proof of its return to the appellants' factory and hence the demand of Rs. 32/- on this item is required to be sustained. As regards Charger Battery 2 KW covered by challan no. 12 dated 17.02.2002, the appellants have explained satisfactorily that although it had not been returned to their factory till March, 2003, as seen from the stock verification carried out, ~~but~~ it was subsequently returned on 15.09.2003. In the light of the above, demand of duty of Rs. 32/- alone is upheld and the duty demand on the remaining three items is set aside as not sustainable for the reason that the appellants have

clearly explained their receipt back and in respect of two items the notice itself recognizes that the goods were returned to the appellants' factory. Some token penalty is called for on the appellants as one item has not shown to have been returned to their factory even till date. However, regarding the fact that the duty involved on this item is only Rs. 32/-, I reduce the penalty to Rs. 50/- (rupees fifty only). The appeal is thus partly allowed, as above.

(Dictated and pronounced in the open Court on the 25th day of November, 2008)

(JYOTI BALASUNDARAM)
VICE-PRESIDENT

Golay