TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

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/1252/2007 – SM [BR] Date 17/12/2008

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

To :
M/S KOTHARI WIRE INDUSTRIES
3, SUDERSHAN INDUSTRIAL AREA, JAIPUR

M/S KOTHARI WIRE INDUSTRIES Appellant
Vs
C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1606 / 2008- **SM[BR]** dated 10.12.2008

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. JAIPUR I
N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME, JAIPUR 302005.
2. Adv. / Consult
MR.PANKAJ MALIK
CHARTERED ACCOUNTANTS 207-208, SHREE GOPAL TOWER, KRISHNA MARG, C-SCHEME, JAIPUR-302001
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)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. IV

Excise Appeal No. 1252 of 2007 ~~(SM)~~

[Arising out of the Order-in-Appeal No. V(16) EOU/17/2006/ 1308 dated 07/02/2007 passed by The Commissioner, Central Excise, Jaipur.]

For Approval and signature :
Hon'ble Shri Rakesh Kumar, Member (Technical)

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	:
2.	Whether it would 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 Department Authorities?	:

M/s Kothari Wire Industries — Appellant

Versus

CCE, Jaipur — Respondent

Appearance

Shri Atul Gupta, C.S. – for the appellant.

Shri S.K. Panda, Authorized Representative (Jt. CDR) – for the respondent.

CORAM : **Hon'ble Shri Rakesh Kumar, Member (Technical)**

DATE OF HEARING : 10/12/2008.

Final Order No. 1606/08-SM(BR) Dated : 10.12.08

Per. Rakesh Kumar :-

The issue involved in this case is as to whether remission of central excise duty is ~~liable~~ permissible on the goods, which after their manufacture ~~it~~ but before their ~~manufacture~~ clearance, were stolen.

2. Heard both the sides. The learned departmental representative pleaded that this very issue has been decided against the appellant by the Larger Bench of the Tribunal in the case of **Gupta Metal Sheets vs. CCE, Gurgaon** vide order No. 287 of 2008 – SM (BR) dated 17/10/2008, wherein the Tribunal held that 'theft' or 'dacoity' cannot be called unavoidable accident within the meaning of the rule 49 of the Central Excise Rules, 1944 and the goods lost in theft or dacoity would not be eligible for remission. Shri Atul Gupta, Company Secretary, the Learned Counsel could not produce any contrary judgment on this issue. The appeal, therefore, is dismissed.

(Dictated and pronounced in open court.)

(Rakesh Kumar)
Member (Technical)

PK