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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/1129/2007 – SM[BR] Date 05/01/2009

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

To :
M/S SANDHAR LOCKING DEVICES
(A UNIT OF SANDHAR TECHNOLOGIES LTD.,
3HSIDC, GURGAON 122001.
M/S SANDHAR LOCKING DEVICES Appellant

Vs

C.C.E. DELHI III Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 1649 / 2008 - SM[BR] dated 28.11.2008

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. DELHI III

UDYOG MINAR, UDYOG VIHAR, VANIJYA NIKUNJ, PHASE V, GURGAON - 122016 (HARYANA)

2. Adv. / Consult

MR.P.M.PANWAR

817, SECTOR 4, URBAN ESTATE, GURGAON

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 AND SERVICE TAX APPELLATE TRIBUNAL, R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH NEW DELHI, COURT NO.I

Excise Appeal No. 1129 of 2007-SM
[Arising out of Order-in-Appeal No. 31/NS/GGN/2007 dated 25.01.2007 passed by the Commissioner (Appeals), Central Excise, Delhi-III, Gurgaon]

Date of Hearing/Decision : 28.11.2008

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?	No
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 Sandhar Locking Devices — Appellant

Vs.

CCE, Delhi-III — Respondent

Appearance:

Mr. P.M. Panwar, Advocate for the appellant
Mr. R.K. Saini, DR for the respondent

CORAM: Ms. Jyoti Balasundaram, Vice President

Final **Order** No. 1649/08-SM(BR)

Per Jyoti Balasundaram:

In this case duty was paid initially on 29.10.1997 on goods cleared from the factory of the appellant, duty was paid once again on the same goods on 10.12.2007; total claim for Rs. 1,60,741.90 refund was filed on 17.03.1998; on adjudication of the notice for demand of duty by the order dated 19.1.2005 of the Assistant Commissioner, the fresh refund claim was filed for an amount of Rs.3,65,742/- including duty amount mentioned hereinabove and redemption fine and penalties. Duty of Rs.3,43,696/- was sanctioned by way of refund; however, an amount of Rs. 22,046/- was rejected on the ground that the claim was time barred. However, on appeal by the Revenue the claim for refund of Rs.3,43,696/- alone was sanctioned and the amount of Rs. 22,046/- was held to be not admissible as refund on the ground that the claim had been filed only on 21.2.2005 which was hopelessly barred by limitation.

2. I find that the claim for refund was initially filed within the statutory period of limitation of six months from the date of payment of duty second time, namely on 17.3.1998 while the duty for the second time was paid on 10.12.1997. The Commissioner (Appeals) has noted the submission of the assessees, but has not given any finding thereon. I have perused the record and find that the claim for refund of Rs. 1,60,741.90 which includes the duty amount of Rs. 22,046/- was filed on 17.3.1998 and therefore the claim could not have been dismissed on the ground of time bar and no other dispute exists. I hold that the assessees are entitled to refund of Rs. 22,046/- in accordance with law, set aside the impugned order and allow the appeal.

[Dictated and pronounced in the open Court]

[Jyoti Balasundaram]
Vice President

[Pant]