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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/1117/2006-SM[BR]   Date 09/04/2008

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

To :
CCE,INDORE

MANIK BAGH PLACE INDORE(MP)

CCE,INDORE   Appellant

Vs

M/S BHANDARI FOILS & TUBE LTD.   Respondent

I am directed to transmit herewith a certified copy of **Final order** No. 591 /2008 –SM[BR] dated 28.2.2008

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 BHANDARI FOILS & TUBE LTD.

D-1-D4,INDL AREA NO-1,AB.ROAD,DEWAS(MP)
2. Adv. / Consult SHRI K. K. ANAND ADV.
A-5, BASMANT LAJPAT NAGAR- III, NEW DELHI -110024

3. S.D.R.
4. ~~J.C.D.R.~~
5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, marg. 43, saket, New
7. M/s Centax Publictions (P) Ltd., 1512-E, Bhishm Pitamah
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301
9. R.Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,
12. Co, Law Institution
13. TAX INDIA, B-XI/8183,Vasant Kunj, New Delhi - 110070
14. Office Copy
15. 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. III

Excise Appeal No.1117 of 2006-SM (BR)

[Arising out of order in appeal No.IND-1/519/2005 dated 30.12.2005 of the Commissioner of Central Excise (Appeals-II), Indore]

Date of Hearing/ Decision:28.2.2008

For approval and signature:

Hon'ble Mr. P.K. Das, Member (Judicial)

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 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?	:	
4. Whether Order is to be circulated to the Departmental authorities?	:	

CCE, Indore (M.P.) ...Appellants
[Rep. by Mr. S.Gautam, DR]

Vs.

M/s. Bhandari Foils & Tubes Ltd. Respondent
[Rep. by Mr. Hemant Bajaj, Advocate]

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

Final Order No: 591/08-SM(BR)/Dated:28.2.2008

Per P.K. Das:

Ld. DR on behalf of the Revenue submits that the Commissioner (Appeals) erroneously set aside the demand of duty without considering the fact that the respondent collected the duty amount from the Insurance Company. He submits that Surveyor's Report contained element of duty for the purpose of valuation of goods.

2. Ld. Advocate on behalf of the Respondents reiterates the findings of the Commissioner (Appeals).

3. After hearing both the sides and on perusal of the records, I find that the Commissioner (Appeals) observed that on careful study of the details of payment, it can be concluded that the Insurance Company had not paid back the excise duty involved to the appellants. In this regard, the ld. Advocate drew the attention of the Bench to the details of payment by the Insurance Company, which was also filed before the Commissioner (Appeals). Therefore, there is no material that the Respondent collected the duty amount from the Insurance Company. 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 28.2.2008.

(P.K. Das)
Member (Judicial)

Ckp.