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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

Date 10/04/2008

Appeal No. E/3277/2006, E/1938 /2007-SM[BR]

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

To :
(1-2)M/S METRO INDUSTRIES
E-91, MANDIA ROAD, PALI-MARWAR, RAJASTHAN

M/S METRO INDUSTRIES — Appellant

Vs

C.C.E. JAIPUR II — Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 616 -617 /2008-SM[BR] dated 3.4.2008 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 II
   N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME, JAIPUR 302005.
2. Adv. / Consult
   MR.H.BAJAJ
   A-5, BASEMENT 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. 46, Saket, New Delhi 110017
7. M/s Centax Publictions (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
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 60017
13. Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal Nos.3277/2006-SM, 1938/07

(Arising out of order in appeal No.414/HKS/CE/JPR.II/06 dated 10.7.06 passed by the Commissioner of Central Excise (Appeals), Jaipur)

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

NA

M/s Metro Industries — Appellant
(Rep. by Shri Hemant Bajaj, Advocate)

Vs

CCE, Jaipur — Respondent
(Rep. by Shri A.K. Rastogi, DR)

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

Date of Hearing: 3.4.2008

Final Order No. 616-617 /2008-SM(BR)

Per P.K. Das:

Common issue is involved in these appeals and therefore, both the appeals are taken up together for disposal.

2. Heard both sides and perused the record.

3. The issue involved in this case is whether the value of under process grey fabrics lying in stock as on 31.3.03 for the purpose of determining of one time credit in terms of Notification No. 35/03-CE(NT) dated 10.4.03 as amended, should include 'the processing charge' besides the valuation of inputs contained therein. The Adjudicating Authority confirmed the demand of duty and imposed penalty. The appellants filed appeal before the Commissioner (Appeals) which was rejected. The Revenue filed appeal before the Commissioner (Appeals) for enhancement of penalty which was allowed. Hence the appellants filed appeal against two orders passed by the Commissioner (Appeals).

4. It is seen that the Tribunal in a series of decisions held the issue against the assessee on merits and set aside the penalty as under:-

a) B.B. Shah (P) Ltd Vs CCE Jaipur
Final Order No.1655-56/07 dated 26.10.07

b) M/s Umed Textile Mills Pvt Ltd Vs CCE Jaipur
Final Order No.134/08 dated 26.12.07

c) Dhanlaxmi Textiles Vs CCE Jaipur-II
Final Order No.1808-1809/07 dated 12.12.07

d) Sharman Fabrics Vs CCE Ludhiana
2006 (200) ELT 615

5. Respectfully following the decision of the Tribunal, the demand of duty is upheld, penalty is set aside. Appeal No E/3277/06 is disposed of in the above terms. Appeal No. E/1938/07 in respect of penalty is allowed.

(Order dictated and pronounced in the open Court).

(P.K. Das)
Member(Judicial)

MPS*