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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/3200/2007-SM[BR] E/STAY/ 2835 /2007 –SM[BR]   Date 15/04/2008

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

To :
M/S STANDRAD FERRO ALLOYS PVT. LTD.
MANGALAM A, 24, HEMANT BASU SARANI SUITE;
204, 2TH FLOOR, KOLKATA
700001

M/S STANDRAD FERRO ALLOYS PVT. LTD. Appellant

Vs

C.E. RAIPUR Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 631 /2008 –SM[BR] &S/274 /2008-SM dated 5.3.2008

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. RAIPUR
   CENTRAL EXCISE BUILDING, DHAMTARI ROAD, TIKRAPARA, RAIPUR 492001.
2. Adv. / Consult SHRI M .K.GUHA NEGI, CONSULAN
   M/S APPELLANT;-----------------
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)

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. III

Excise Stay Application No. 2835 of 2007 in Appeal No. 3200 of 2007 – SM (BR)

[Arising out of the Order-in-Appeal No. 119/RPR-1/2007 dated 25/05/2007 passed by The Commissioner (Appeals) of Customs & Central Excise, Chattisgarh.]

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 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? :

N.

M/s Standard Ferro Alloys Pvt. Limited Appellant

Versus

CCE, Raipur Respondent

Appearance

Shri M.K. Guha Negi, Consultant – for the appellant.

Shri Rajmal, Authorized Representative (DR) – for the Respondent.

CORAM : **Hon'ble Shri P.K. Das, Member (Judicial)**

DATE OF HEARING : 05/03/2008.

Final Order No. 631/08-SM(BR) Dated : 5/3/08
S.O. No. 274/08-SM(BR)

Per. P.K. Das :-

After hearing both the sides and on perusal of the records, I find that issue involved in this case is a narrow campus and therefore after granting of stay the appeal is taken up for hearing.

2. Commissioner (Appeals) rejected the appeal on the ground that the appeal was filed by the appellant after 91 (ninety one) days from the date of communication of the order. The Commissioner (Appeals) observed that the date of communication of the adjudication order, as recorded in EA-I Form is on 19th January 2007 and the appeal was received by the office on 20th April 2007. The learned counsel on behalf of the appellant submits that the order was communicated on 22nd January 2007 and erroneously it was recorded as 19th

January 2007. He also submits that the appeal was sent by speed post on 17th July 2007. In support of his contention, he produced the original receipt of the postal authority before the Bench. Copy of the said receipt has been kept on record. The learned counsel also submits that proper opportunity of hearing was not given and the appellant did not receive the hearing notice.

3. In view of the above, I find that the evidence placed by the learned counsel is required to be examined by the Commissioner (Appeals). Accordingly, the impugned order is set aside and the matter is remanded back to Commissioner (Appeals) to decide afresh after considering the evidences placed by the learned counsel. Needless to say that Commissioner (Appeals) shall give proper opportunity of hearing before passing of the order. The appeal is allowed by way of remand.

(Dictated and pronounced in open court)

(P.K. Das)
Member (Judicial)

PK