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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/310 /2006-SM[BR] Date 28/04/2008

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

To :
CCE,RAIPUR

CENTRAL EXCISE
BUILDING,TIKARAPARA,RAIPUR(CG)
CCE,RAIPUR Appellant

Vs

M/S SETH BANSIDHAR KEDIA STEEL IND, Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 651 /2008 –SM[BR] dated 29.2.2008

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 SETH BANSIDHAR KEDIA STEEL IND,

RULA IND.AREA,RAIPUR(CG)

2. Adv. / Consult SHRI RAKEES SINGH CO. REP.
M/S RESPONDENT;--------------

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 No.310/2006-SM

(Arising out of order in appeal No.139/RPR.I/2005 dated 10.11.2005 passed by the Commissioner of Central Excise (Appeals), Raipur)

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?

PK

CCE, Raipur — Appellant
(Rep. by Shri S.L. Meena, DR)

Vs

M/s Seth Bansidhar Kedia Steel Industries — Respondent
(Rep. by Shri Rakesh Singh, Co. Rep.)

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

Date of Hearing: 29.2.2008

Final Order No. 651 /2008-SM(BR)

Per P.K. Das:

The relevant facts of the case, in brief, are that the Respondents are engaged in the manufacture of MS Ingots and various Hot Rolled Products of Iron and Steel falling under Chapter 72 of the Central Excise Tariff Act,

1985. On 15/16.12.2004, the Central Excise officers visited the Respondents factory and conducted stock verification. The officers found shortage of finished products and inputs. The Respondents deposited the duty on the shortage of finished goods and contested the method of stock verification in respect of stock of inputs. The Adjudicating Authority appropriated the duty paid on the shortage of finished goods and confirmed the demand of duty on the shortage of inputs and also imposed penalty of Rs.25,000/-. The respondents filed appeal before the Commissioner (Appeals) whereby demand of duty on shortage of inputs was set aside and penalty reduced to Rs.10,000/-.

2. The learned DR on behalf of Revenue, submits that the finding of the Commissioner (Appeals) that no proper stocktaking process was conducted, is erroneous. It is seen from the Panchnama that the stock verification was conducted on average weight of ingots and angles. He also cited the case laws as mentioned in the ground of appeal.

3. The learned Representative on behalf of the Respondents reiterates the finding of the Commissioner (Appeals). He drew the attention of the Bench to the Panchnama where it is stated that no stock verification was conducted of MS Scrap and M.S. Angle.

4. After hearing both the sides and on perusal of the record, I find that the Adjudicating Authority expressed his dissatisfaction on the manner of stocktaking done by the officers as contained in Panchnama dated 16.12.2004. The Adjudicating Authority confirmed the demand of duty on inputs namely,M.S. Scrap and M.S. Ingot. It is seen from the impugned order that the officers have not taken into account the stocks of scrap in

process and ingots in process and lying in their Rolling Mills. It is recorded in the Panchnama that "Runners and Risers, Scrap and Sponge Iron were lying at different lots at different places, verification of these goods was not justified" and therefore, the officers did not find it appropriate to verify the stock. Commissioner (Appeals) observed that in view of the Panchnama and statements of Shri P. Kedia, it appears that stock of scrap and inputs in the factory of the Respondents, was not properly verified and therefore, the allegation of shortage of MS scrap is not established beyond doubt. The main contention of Revenue is that the Respondent used to maintain the stock of MS scrap and C.I. scrap separately in the Form IV register and therefore, there is no question of mixing of different scrap. I find that the Commissioner (Appeals) has discussed in detail the mixing of different scraps and Investigating officer took pain to verify the stock. In any event, it is on record that the stock taking of inputs was not conducted properly and the findings of the Commissioner (Appeals) are justified. Accordingly, I do not find any reason to interfere with the Order passed by the Commissioner (Appeals). The appeal filed by the Revenue is rejected.

(Order dictated and pronounced in the open Court.)

(P.K. Das)
Member(Judicial)