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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/3221/2006-SM[BR] Date 05/05/2008

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

To :
C.C.E. CHANDIGARH
PLOT NO 19,SECTOR 17-C,CHANDIGARH.

C.C.E. CHANDIGARH Appellant

Vs

M/S PARTAP WIRES (I) PVT LTD Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 682 /2008 –SM[BR] dated 17.3.2008 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
   M/S PARTAP WIRES (I) PVT LTD
   VPO MOHTLI, TEH INDORA(DAMTAL), DISTT-KANGRA(HP)
2. Adv. / Consult Shri. Manish Push Karna Adv.
   46, Bank Enclave
   Delhi - 110092.
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.3221/2006-SM

(Arising out of order in appeal No.608/CE/Chd/06 dated 5.7.06 passed by the Commissioner of Central Excise (Appeals), Chandigarh)

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?

CCE, Chandigarh — Appellant
(Rep. by Shri A.K. Rastogi, DR)

Vs

M/s Pratap Wires (I) Pvt Ltd — Respondent
(Rep. by Shri Manish Pushkarna, Advocate)

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

Date of Hearing: 17.3.2008

Final Order No. 682 /2008-SM(BR)

Per P.K. Das:

The Revenue filed this appeal against the order of Commissioner (Appeals) whereby penalty under Section 11AC of Central Excise Act, 1944 is set aside.

2. After hearing both the sides and on perusal of record, it is seen from the impugned order that the Central Excise officers detected the shortage of finished goods during stock verification. The respondent explained that it was due to wrong report of production. The respondent deposited the duty upon detection and before issue of show cause notice. There is no material of suppression of fact with intent to evade payment of duty and clandestine removal of goods. The Hon'ble Punjab & Haryana High Court in the case of CCE Ludhiana Vs Sigma Steel Tubes reported in 2007 (210) ELT 658 held that no penalty is imposable under Section 11AC as well as under Rule 173-Q of the erstwhile Central Excise Rules once the duty is deposited before issue of show cause notice. Therefore, I do not find any reason to interfere with the order of the Commissioner (Appeals). The appeal filed by the Revenue is dismissed.

(Order dictated and pronounced in the open Court).

(P.K. Das)
Member(Judicial)

MPS*