

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/3659/2006-SM[BR]

Date 13/05/2008

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

To :
C.C.E.BHOPAL

48, ADMINISTRATIVE AREA, AREA HILLS,
HOSHANGABAD ROAD, BHOPAL.

C.C.E.BHOPAL

M/S MOHD. SHAHID

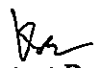
Appellant

Vs

Respondent

I am directed to transmit herewith a certified copy of Final order No. 747 /2008 -SM[BR] dated 9.4.2008

passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar

(SM Appeal Branch)

Copy to :

1. Respondent

M/S MOHD. SHAHID

S/O SHRI MOHD. IBRAHIM, PROP OF M/S MSMF BIRI FACTORY, HOUSE NO 33/234, FUTERA WARD NO 5,
DAMOHP(MP)

2. Adv. / Consult

NONE;-----

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 Publications (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 AND SERVICE TAX APPELLATE
TRIBUNAL, NEW DELHI
PRINCIPAL BENCH NEW DELHI**

Excise Appeal No.3659 of 2006-SM (BR)

[Arising out of Order-in-Appeal No.188-CE/
BPL/2006 dated 21.08.2006 passed by the Commissioner of Central Excise
(Appeals), Bhopal (M.P.)]

Date of Hearing/ Decision:9.4.2008

For approval and signature:

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

-
- | | | |
|--|---|---|
| 1. Whether Press Reporters may be allowed to see
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, Bhopal

...Appellants
[Rep. by Shri A.K. Rastogi, DR]

Vs.

M/s. Mohd. Shahid S/o Mohd. Ibrahim

...Respondent
[Rep. by None.]

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

Final Order No. 747/08-SM(BR)/Dated: 9.4.2008

Per P.K. Das:

Heard the Id. DR on behalf of the Revenue. None appeared on
behalf of the Respondent

2. It is seen from the record that the Respondents are engaged in the manufacture of handmade biris. The Central Excise Officers during their visit to the Respondents' factory detected that the Respondent had been manufacturing biris without Registration Certificate. The Central Excise Officers seized biris of value of Rs.6,620/-. The Respondents accepted his guilt and admitted to pay the duty and penalty, as may be imposed. The Adjudicating Authority imposed redemption fine of Rs.500/- and penalty of Rs.1,000/-. Revenue filed the appeal before the Commissioner (Appeals), which was rejected.

3. The main contention of the Id. DR is that the penalty amount less than Rs.10,000/- cannot be imposed under Rule 25 of the Central Excise Rules, 2002. The Larger Bench of the Tribunal in the case of CCE, Bhopal Vs. M/s. Rana Wood Craft Pvt. Ltd. in Appeal No.ST/464/07 (pronounced on 7.4.2008) held that there is no minimum penalty under Rule 25 of the said Rules.

4. After considering the facts and circumstances of the case, particularly that the Respondent is a small scale manufacturer and admitted their offence, there is no reason for enhancement of penalty and fine. Accordingly, the appeal filed by the Revenue is rejected.

Order dictated & pronounced in open court on 9.4.2008.

(P.K. Das)
Member (Judicial)

Ckp.