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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/3656/2006-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 Appellant

Vs

M/S ASHOK & COMPANY Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 757 /2008 –SM[BR] dated 7.5.2008 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 ASHOK & COMPANY
   SUBHASH WARD, HATTA, DISTT- DAMOH(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 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

COURT – II

EXCISE APPEAL NO. 3656 OF 2006-SM

[Arising out of Order-in-appeal No. 187-CE/BPL/2006 dated 18.8.2006 passed by the Commissioner (Appeals), Customs & Central Excise, Bhopal]

For approval and signature:

Hon'ble Mr. S.S. Kang, Vice President,

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 Departmental authorities?	

CCE, Bhopal — Appellant

Vs.

M/s. Ashok & Company — Respondents

Appearance:

Shri A.K. Rastogi, Departmental Representative, for the appellant
None for the respondents,

Coram:

Hon'ble Mr. S.S. Kang, Vice President,

Date of Hearing: 6th May, 2008

FINAL ORDER NO. 757/08-SM(BR) dated 7-5-08

Per S.S. Kang:

Heard learned SDR as none appeared on behalf of the respondents. Revenue filed this appeal against the impugned order whereby appeal filed by the Revenue for enhancement of redemption fine and penalty was rejected.

2. Brief facts of the case are that biris valued at Rs. 41,247/- were seized as the same were found unaccounted in the factory premises. Adjudicating authority confiscated biris and allowed to redeem the same on payment of redemption fine of Rs. 500/- and imposed penalty of Rs. 1000/- under Rule 25 of Central Excise Rules. Revenue filed appeal before the Commissioner (Appeals) for enhancement of redemption fine and penalty and the same was dismissed by the Commissioner (Appeals) on the ground that considering the value of goods and circumstances of the case quantum of redemption fine and penalty were quite proper. In the present appeal main ground of the revenue is that ~~mere~~ un-accountal of goods, in absence of mens rea to remove the goods without payment of duty, are liable for confiscation. Contention of Revenue is that mens rea is not required in respect of confiscation and penalty on account of un-accountal of goods.

3. I find that the adjudicating authority confiscated the goods. Only contention of the Revenue in the present appeal is for enhancement of

redemption fine and penalty. Value of goods is Rs. 41,247/- and duty involved is only Rs. 5453/-. In these circumstances quantum of redemption fine and penalty does not require interference. Therefore, appeal is rejected.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

Dated 7th May, 2008

RK