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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/3693/2006-SM[BR] Date 14/05/2008

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

To :
M/S VISHAL PIPES LTD
C-23, INDUSTRIAL AREA, SIKANDRABAD,
BULANDSHAHAR(UP)

M/S VISHAL PIPES LTD Appellant

Vs

C.C.E.NOIDA Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 768 /2008-SM[BR] dated 26.3.2008

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.NOIDA
   B-123, SECTOR 5, NOIDA.
2. Adv. / Consult SHRI VISHAL AGARWAL DIRECTOR
   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-110066.
Principal Bench, New Delhi.
E/3693/06-SM

[Arising out of Order-in-Appeal No.132/CE/APPL/NOIDA/06 Dt.25.9.06 passed by the Commissioner(Appeals), Noida)

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:	:

M/s. Vishal Pipes Ltd. Appellant

Versus

CCE, Noida Respondent

Appearance

Sh. Vishal Agarwal, Director For Appellant

Sh. S.Gautam, Authorised Representative(DR) For Respondent

Coram: Hon'ble Mr. P.K.DAS, MEMBER JUDICIAL

Date of Hearing 26.3.08
Final Order No. 768/08-SM(BR)

Per P.K.Das:

Heard both sides and perused the records.

2. The relevant facts of the case in brief are that on 24.6.05, the Central Excise Officers conducted physical verification of finished goods at the appellant's factory. The Central Excise Officers detected shortage of inputs and excess quantity of finished goods against recorded balance of the statutory records. The appellant debited the duty on the inputs. By adjudication order dt.25.5.06, the adjudicating authority confirmed the demand of duty and appropriated amount deposited by the appellant and also imposed penalty of the equal amount under Section 11AC of the Central Excise Act,1944. He has confiscated the seized goods and allowed redemption of the said goods on payment of fine of Rs.1,26,800/-.

3. I find that shortage of inputs was detected during the stock verification and the appellant debited the duty on the said shortage. There is no material of clandestine removal of the ~~finished goods~~ inputs and therefore, penalty under Section 11AC of the Act is not justified. Regarding confiscation of the excess goods, it is seen that the goods were within the factory premises. But, no explanation was given by the appellant in respect of excess goods. In any event, there was an excess quantity of finished goods against the recorded balance and therefore, there is a contravention of Rules and no explanation was given. So confiscation of goods is justified. Ld. Representative relied upon the decision of the Tribunal in the case of Rawalwasia Ispat Udyog Ltd. vs CCE, Delhi reported in 2005(186)ELT.465(Tri.-Del.) wherein redemption fine of Rs.3 lakhs was reduced to Rs.1.5 lakhs. I find that the goods were confiscated for non-accountal and therefore, redemption fine is excessive.

4. In view of the above discussion, penalty under Section 11AC of Central Excise Act.1944 is set aside and redemption fine is reduced to Rs.50,000/-.

Order dictated in the open Court.

(P.K.Das)
Member Judicial

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