

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/3913/2006-SM[BR]

Date 19/05/2008

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

To :
M/S SARU SMELTING (P) LTD.
SARU NAGAR, SARDHANA ROAD, MEERUT.
M/S SARU SMELTING (P) LTD.

C.C.E. MEERUT - I

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 773 /2008 -SM[BR] dated 14.3.2008
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. MEERUT - I

MANGAL PANDEY NAGAR, MEERUT.

2. Adv. / Consult

MR.S.K.GADHOK

133/6,SHASTRI NAGAR,MEERUT

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)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No. 3913/06

(Arising out of order in appeal No.176/CE/MRT.I/06 dated 18.9.06 passed by the Commissioner of Central Excise (Appeals), Meerut)

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?

M

M/s Saru Smelting (P) Ltd

Appellant
(Rep. by Shri S.K. Gadhok, Consultant)

Vs

CCE, Meerut-I

Respondent
(Rep. by Shri A.K. Rastogi, DR)

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

Date of Hearing: 14.3.08

Final Order No.

773

/2008-SM(BR)

Per P.K. Das:

Heard both the sides and perused the records.

2. The appellants filed this appeal against imposition of penalty under Rule 25 of the Central Excise Rules, 2002. It is seen from the order of the

Commissioner (Appeals) that the appellants failed to discharge duty liability under Rule 8 of the Central Excise Rules, 2002 within the stipulated period. The appellants deposited the entire amount of duty before issue of show cause notice.

3. I find that the Tribunal in the case of Condor Power Products Pt Ltd Vs CCE Faridabad reported in 2007 (210) ELT 137 held that penalty under Rule 25 of the Central Excise Rules 2002 cannot be imposed for delay of payment of duty under Rule 8 of the Central Excise Rules, 2002. The appellants disclosed their duty liability in their return. Respectfully following the decision of the Tribunal, I set aside the penalty. The appeal is allowed with consequential relief.

(Order dictated and pronounced in the open Court).

MPS*

(P.K. Das)
Member(Judicial)