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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/3053/2006-SM[BR] Date 22/05/2008

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

To :
M/S A.S.T.PIPES PVT LTD.
B-33,B.S.ROAD,INDL AREA,GHAZIABAD.

M/S A.S.T.PIPES PVT LTD. Appellant
Vs
C.C.E.GHAZIABAD Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 793 /2008 –SM[BR] dated 8.5.2008

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

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
   C.C.E.GHAZIABAD
   CGO COMPLEX,KAMLA NEHRU NAGAR,GHAZIABAD.
2. Adv. / Consult
   MR.RAJESH CHHIBBER
   FA/9, NEW KAVI NAGAR, GHAZIABAD
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. 3053/06-SM

(Arising out of order in appeal No.79/CE/Gzb/06 dated 23.6.06 passed by the Commissioner of Central Excise (Appeals), Ghaziabad)

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?

No

M/s A.S.T. Pipes Pvt Ltd — Appellant
(Rep. by Shri Rajesh Chhibber, Advocate)

Vs

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

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

Date of Hearing: 8.5.08

Final Order No. 793 /2008-SM(BR)

Per P.K. Das:

The relevant facts of the case, in brief, are that the Appellants are engaged in the manufacture of G.I. Tubes and M.S. Tubes etc. classifiable under Sub heading 7306.90 of the Central Excise Tariff Act, 1985. On 20th

September, 2004, the Central Excise officers visited the Appellants factory and verified the stock. The officers ascertained shortage of finished goods which was accepted by the Appellants and paid the duty on the spot. In reply to Show Cause Notice, they explained that they receive raw material and dispatch of finished goods on actual weight basis, which were entered in the stock, but production in RG.I was recorded on the basis of formula, therefore, shortage was occurred. The Adjudicating Authority confirmed the demand of duty and appropriated the amount already deposited and imposed penalty of equal amount.

2. After hearing both the sides and on perusal of record, I do not find any material that the shortage of finished goods was cleared clandestinely and therefore, imposition of penalty of equal amount of duty is not justified. Accordingly, penalty is set aside. The appeal is allowed in the above terms

(Order dictated and pronounced in the open Court).

(P.K. Das)
Member(Judicial)

MPS*