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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/3033 -3035 /2006-SM[BR] Date 22/05/2008

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

To :
C.C.E.LUDHIANA
CENTRAL REVENU BUILDING,F BLOCK RISHI
NAGAR,LUDHIANA.

C.C.E.LUDHIANA Appellant

Vs

M/S SHIV SHAKTI STEEL TUBES Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 796 -798 /2008 –SM[BR] dated 4.4.2008

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 SHIV SHAKTI STEEL TUBES
   SANGRUR ROAD,DIRBA.
   [2]M/S SHIV SHAKTI CONCAST[P] LTD. SANGRUR ROAD DIRBA.
   [3]M/S BHIWANI TUBES PVT. LTD. SANGRUR OAD. DIRBA DISTT; SANGRUR [PB]
2. Adv. / Consult
   MR.PIYUSH KUMAR,ADV
   B-25,LAJPAT NAGAR-III,N.DELHI
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 -I, 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. 3033-3035/06

(Arising out of order in appeal No.1/CE/CHD/06 dated 31.5.06 passed by the Commissioner of Central Excise (Appeals), Chandigarh)

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.

CCE, Ludhiana

Appellant
(Rep. by Shri S.L. Meena, DR)

Vs

M/s Shiv Shakti Steel Tubes

Respondent
(Rep. by none)

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

Date of Hearing: 4.4.08

Final Order No. 796 to 798 /2008-SM(BR)

Per P.K. Das:

Heard the learned DR on behalf of the Revenue. None appeared on behalf of the Respondent inspite of notice.

2. Common issue is involved in these appeals, therefore, all the appeals are being taken up together for disposal.

3. The Respondents failed to discharge the duty liability by due date under Rule 8(4) of Central Excise Rules, 2001. The Adjudicating Authority ordered for forfeiture of facility of payment of duty on monthly basis under Rule 8(1) of the said Rules for a period of two months starting from the date of communication of order. The Commissioner (Appeals) modified the adjudication order and revised it to one and a half months from the date of communication of ~~adjudication~~ order.

4. The learned DR submits that the Commissioner (Appeals) passed the order following the decision of the Tribunal in the case of Calcom Vision Ltd Vs CCE Meerut-I reported in 2002 (142) ELT 383 (Trib. Del) wherein the Tribunal followed the decision in the case of Escorts JCB Ltd Vs CCE New Delhi 2000 (118) ELT 650 (Tri.). He submits that the case of Escorts JCB Ltd (Supra) relates to Section 11AC of the Central Excise Act which is not applicable herein.

5. After hearing the learned DR and on perusal of the record, I find that the Tribunal in the case of Calcom Vision Ltd Vs CCE Meerut-I reported in 2002 (142) ELT 383 (Tri.Del) held that forfeiture of facility for maximum period of two months is not mandatory. The Tribunal after considering the facts and circumstances of the case, reduced the forfeiture of facility for one month. In the present case, the Commissioner (Appeals) considered the facts of the cases and reduced the facility to one and a half months. The finding of the Commissioner (Appeals) in Order in Appeal dated 31.5.06 is reproduced below:-

"However, considering the totality of fats and circumstances of the case and taking into account the fact that out of total duty liability of Rs. 3,41,894/-, the appellants had already discharged substantial duty liability of Rs. 3,19,894/- by the due date and outstanding amount of duty was Rs.22,000/- which was paid alongwith interest beyond 30 days from the due date, the forfeiture of facility of paying duty on monthly basis for a period of two months is quite harsh and merits to be modified and reduced."

6. It is noted that the Respondents discharged the substantial amount of duty liability by due date and therefore, the Commissioner (Appeals) rightly reduced the forfeiture facility. Accordingly, I do not find any reason to interfere with the order of the Commissioner (Appeals). All the appeals filed by the Revenue are rejected.

(Order dictated and pronounced in the open Court).

(P.K. Das)
Member(Judicial)

MPS*