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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

Date 07/01/2009

Appeal No. E/202 /2007,251 /2007 – SM[BR]

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

To :
M/S SHANTI PETROFOAM LTD
T-I/A, INDUSTRIAL AREA, SONEPAT.

Appellant

M/S SHANTI PETROFOAM LTD

Vs

Respondent

C.C.E.ROHTAK

I am directed to transmit herewith a certified copy of **Final order No.** 19 – 20 / 2009- **SM[BR]** dated 2.1.2009 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.ROHTAK
   17-P, SECTOR 1, ROHTAK.
2. Adv. / Consult
   MR.NAVEEN MULLICK,ADV
   B-388, MEERA BAGH, 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 - 3
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
13 Taxindiaonline.com Pvt.Ltd. B-XI/8183.Vasant Kunj. New Delhi - 110070
14 Easy Service Tax Online Dot Com Pvt.Ltd.407A.Iscon Mall.Above Star India Bazar.Satellite Road.Ahmedabad-1
15 Office Copy
16 Guard file

2. M/S SHANTI PETROFOAM LTD.
T-11A, INDUSTRIAL AREA, SONEPAT.

Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

COURT NO. II

Excise Appeal No. 202 of 2007-SM

(Arising out of Order-in-Appeal No. 302/NS/RTK/2006 dated 23.10.06 passed by the Commissioner (Appeals), Central Excise, Gurgaon)

M/s Shanti Petrofoam Ltd. — Appellant
Shri Naveen Mullick, Advocate

Vs.

CCE, Rohtak — Respondent
Shri S.K. Panda, DR

Excise Appeal No. 251 of 2007-SM

(Arising out of Order-in-Appeal No. 302/NS/RTK/2006 dated 23.1.06 passed by the Commissioner of Central Excise (Appeals), Gurgaon)

CCE, Rohtak — Appellant
Shri S.K. Panda, DR

Vs.

M/s Shanti Petrofoam Ltd. — Respondent
Shri Naveen Mallick, Advocate

Date of Hearing: 23.12.08

CORAM: HON'BLE MR. D.N. PANDA, MEMBER (JUDICIAL)

Final Order No. 19-20/09-SM(BR) dated 2-1-09

Per D.N. Panda:

Ld. DR appearing for the Revenue submits that this matter is governed by First proviso to Section 35B (i) of Central Excise Act, 1944 whereby jurisdiction is exercisable by the Central Government. The respondent is not debarred to seek remedy that may be available to them under different provisions of law without seeking relief before this forum.

2. Ld. counsel Shri Naveen Mullick appearing on behalf of the respondent agrees with the aforesaid position of law. Ld. counsel submits that they were not served copy of the order of the remitting authority for which they are prejudiced. He submitted that on the earlier occasion, Revenue was directed to produce copy of that order. In view of the above legal position,the respondent may be given liberty to seek appropriate relief before the jurisdictional forum.

3. Heard both sides and perused the record. On the earlier occasion i.e. on 20.10.08, there is a direction of Bench to the Revenue to produce the order of remission passed by the ld. Commissioner. When the order was called to be produced before the Bench today, ld. DR submits that the respondent is entitled to the copy of the same before the appropriate authority when they seek

relief before that authority, in view of the provisions of Section 35B (1) of Central Excise Act, 1944. Noticing that remedy of revision is available to the Respondent before different forum the respondent may seek appropriate relief, if so advised and delay if any made to seek relief that may be condoned by that Authority on appropriate application. Also the respondent should not be debarred from getting copy of the remittance order if any that was passed by the ld. Commissioner when that order gave raise to the cause under litigation.

4. With the aforesaid observations, this appeal is dismissed in accordance with the provisions contained in first proviso to Section 35B (1) of Central Excise Act, 1944.

(Dictated & pronounced in open Court)

(D.N. PANDA)
JUDICIAL MEMBER

RM