

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/1608/2006 – SM[BR]

Date 13/01/2009

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

To :
M/S PETRO CARBON INDUSTRIES
S-10/252 MAQBOOL ALAM ROAD, VARANASI
221002
M/S PETRO CARBON INDUSTRIES

Appellant
Vs
Respondent

C.C.E ALLAHABAD

I am directed to transmit herewith a certified copy of Final order No. 33 / 2009- SM[BR] dated 6.1.2009
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 ALLAHABAD

38, M.G. MARG, CIVIL LINES, ALLAHABAD

2. Adv. / Consult

MR. BIPIN GARG

B-1/1289, A-VASANT KUNJ, NEW 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 Publications (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 Puniabi Bagh, New Delhi - 110026

12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No. 70 (Old No. 88), Thvagarava Road, T. Nagar, Chennai

13 Taxindiaonline.com Pvt. Ltd. B-XI/8183, Vasant Kuni, New Delhi - 110070

14 Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-1

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Assistant Registrar
(SM Appeal Branch)

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

E/Appeal No.1608/2006 -SM(Br)

(Arising out of order in appeal No.115/CE/Api/Alld/05 dated 18.11.05
passed by the Commissioner of Central Excise (Appeals), Allahabad)

M/s Petro Carbon Industries

Appellant
(Rep. by Shri Bipin Garg, Advocate)

Vs

CCE, Allahabad

Respondent
(Rep by Shri S.K. Panda, Jt CDR)

Coram: Hon'ble Mr.D.N. Panda, Judicial Member

Date of Hearing: 23.12.08

Final

Order No.

33

/2006-SM~~EX~~(BR)

Per D.N. Panda:

Learned Counsel Shri Bipin Garg on behalf of the Appellants submits that this matter is old and the factory is also closed. To avoid litigation, the appellant has also released the goods depositing the redemption fine of Rs.40,000/- and paying the duty involved. The appellant has suffered penalty on two counts ^{e-e.} under Rule 8 and Rule 173-Q under Central Excise Rules 1944 by ^{an} amount of Rs.31,000/- and Rs.5,958/- ^{respectively.} He further argues that Revenue has made the case without any substance. Goods were seized on 3.7.99 and the order was passed on 31.10.2000 without examining the alleged discrepancies thoroughly. There was no discrepancy at all. But confiscation was directed. There was no suppression of any fact or goods. He prays that duty and penalty may be waived.

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2. Learned DR supports the order passed by lower authority and submits that duty and penalty were rightly imposed. The appellant having contravened the law, release of the goods by paying fine was warranted.

3. Heard both sides and perused the record. The Appellant has deposited redemption fine of Rs.40,000/- while duty liable to be paid was Rs.31,526/-. Therefore, the same is reduced to Rs.10,000/- finding to be disproportionate to meet the ends of justice.

4. The penalty under Rule ⁸ is for contravention of provisions of law. Considering that penalty would be proper in this case, the penalty of Rs.31,526/- imposed under Rule 173-Q is waived. Interest shall be calculated on the basis of duty liability arising in consequence of this order.

5. In the result, the appeal is partly allowed.

(Order dictated and pronounced in the open Court).

(D.N. Panda)
Judicial Member

MPS*