

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066**  
**SINGLE MEMBER APPEAL BRANCH**

Date 13/01/2009

Appeal No. E/549 /2007-554 /2007 - SM[BR]

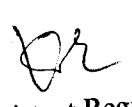
Assistant Registrar  
C.E.S.T.A.T, New Delhi

To :  
C.C.E. CHANDIGARH  
PLOT NO.-19, SECTOR-17-C, CHANDIGARH  
C.C.E. CHANDIGARH

Appellant  
Vs  
Respondent

M/S DHIMAN INDS.

I am directed to transmit herewith a certified copy of Final order No. 38 -43 / 2009 - SM[BR] dated 7.1.2009  
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

  
Assistant Registrar  
(SM Appeal Branch)

**Copy to :**

1. Respondent

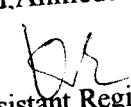
M/S DHIMAN INDS.

2. Adv. / Consult SHRI RUPENDER SINGH ADV.  
DSK LEGAL.  
C-5/9, SDA, NEW DELHI -110016

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 Punjabi 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.
- 15 Office Copy
- 16 Guard file

  
Assistant Registrar  
(SM Appeal Branch)

2. M/S K.C. SONI & SONS STEEL (P) LTD.

MANDI GOBINDGARH

3. SHRI DINESH KUMAR AGRAWAL, PARTNER, M/S DHIMAN IN

GURU KI NAGRI, MANDI GOBINDGARH

4. SHRI RAJESH KUMAR SINGH, MANAGER, M/S K.C. SONI &  
MANDI GOBINDGARH

5. M/S TWEETY FIRST CENTURY STEELS LTD.

G.T. Road, Sirhind side, Mandi Gobindgarh  
Chandigarh

6. Shri Gurspreet Singh, Manager, M/s Tweety First CEN  
G.T. Road, Sirhind side, Mandi Gobindgarh.  
Chandigarh

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE  
TRIBUNAL,  
WEST BLOCK NO.II, R.K.PURAM, NEW DELHI.

EXCISE APPEAL NO.549 TO 554/2007

[Arising out of Order-in-Appeal No.1064-69/CE/CHD/06 dated  
24.11.2006 of the Commissioner (Appeals), Central Excise,  
Chandigarh]

Date of hearing/decision:24.12.2008

For Approval and Signature:  
Hon'ble Mr.D.N. PANDA, JUDICIAL MEMBER

CCE, Chandigarh ...Appellant  
[Represented by Shri Sansar Chand, DR]

Vs.

M/s.Dhiman Indus.  
Shri Dinesh Kumar Aggarwal, Partner, M/s.Dhiman Indus.  
M/s. Twenty First Century Steel Ltd.  
Shri Gurpreet Singh, Manager of M/s. Twenty First Century  
M/s. K.C. Soni & Sons P. Ltd.  
Shri.Rajesh Kumar Singh, Manager, M/s.K.C.Soni &  
Sons(P) Ltd ....Respondents  
[Represented by Shri Rupender Singh, Advocate  
in Appeal Case No.549/07 and 550/07]

CORAM: Hon'ble Mr.D.N.PANDA, JUDICIAL MEMBER

Final ORDER NO 38-43/07-sm(BR) /Dated 24.12.2008.

PER: D.N. PANDA

In all the 6 appeals, Id. Commissioner (Appeals) by a  
common order dated 24.11.2006 has given reasons of his  
decision observing that duty as well as 25% amount as penalty  
was deposited before issue of Shaw-Cause-Notice.

:2:

2. Ld. Counsel appearing for the respondent in appeal case No.549/07 & 550/07 submitted that penalty was not imposable when duty liability was discharged with above quantum of penalty deposited before Shaw-Cause-Notice. Therefore, the Revenue's appeals may be dismissed.

3. Ld. DR appearing on behalf of Revenue submits that once penalty is leviable, the extent of penalty leviable shall be as per law. Therefore, the adjudication order in respect of penalty may be restored.

4. Heard both sides and perused the records. It appears that the Id. Commissioner has examined the provision of section 11AC of Central Excise Act 1944. In absence of any contrary evidence against his decision, the reasoning of the Id. Commissioner (Appeals) is not liable to be impeached. Therefore, all the six appeals filed by the Revenue are dismissed.

(D.N.PANDA)  
JUDICIAL MEMBER

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