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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/3042/2006 – SM[BR] Date 05/05/2009

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

To :
C.C.E.RAIPUR

DHAMTARI ROAD,TIKRAPARA,RAIPUR.

C.C.E.RAIPUR Appellant

Vs

M/S BHILAI REROLLERS Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 348 / 2009 –SM[BR] dated 20.4.2009

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 BHILAI REROLLERS

83-B,LIGHT INDUSTRIAL AREA,BHILAI,DISTT-DURG(CG)

2. Adv. / Consult

NONE;----------

3 S.D.R
4 ~~J.C.D.R.~~
5 Bar association, CESTAT, New Delhi
6 Director Publications, Customs, Excise. I.P. Estate, New Delhi
7 M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
8 Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9 Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10 M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)
11 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
12 Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
13 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
14 Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
15 LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
16 Office Copy
17 Guard file

Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Excise Appeal No.3042 of 2006 -SM (BR)

[Arising out of Order-in-Appeal No.56-58/RPR-II/2006 dated 19.06.2006 passed by the Commissioner of Central Excise (Appeals). Raipur]

Date of Hearing/ Decision:20.04.09

For approval and signature:

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

3. Whether Press Reporters may be allowed to see 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? : No

3. Whether Their Lordships wish to see the fair copy of the Order? :

4. Whether Order is to be circulated to the Departmental authorities? : Yes

CCE, Raipur ...Appellant

[Rep. by Shri S. Gautam, SDR]

Vs.

M/s. Bhillai Rerollers ...Respondent

[Rep. by None.]

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

Final Order No. 348/09-SM(BR) /Dated:20.04.2009

<u>Per P.K. Das:</u>

Heard the ld. DR on behalf of the Revenue. None appears on behalf of the respondent despite issue of notice.

2. The relevant facts of the case, in brief, are that the respondents are engaged in the manufacture of hot rolled products classifiable under Chapter 72 of the Schedule to the Central Excise Tariff Act, 1985. On 26.09.96, the Central Excise Officers visited the respondent's factory and conducted stock verification of raw materials and finished goods. The Central Excise Officers ascertained shortage of raw materials and finished goods involving Central Excise Duty of Rs.1,31,712/- on finished goods and Rs.10,316/- on inputs. They have also detected short payment of duty of Rs.2,791/- on price variation. The Original Authority confirmed the demand of duty and imposed penalty of equal amount under Section 11 AC of the Central Excise Act, 1944 and penalty of Rs.15,000/- under Rule 173 Q of the Central Excise Rules, 1944. The Commissioner (Appeals) modified the demand of duty and reduced to Rs.73,255/- and penalty was reduced to Rs.25,000/-. He set aside the amount of duty ~~for~~ of Rs.58,457/- and penalty under Section 173 Q of Rs.2,791/-. Hence, Revenue filed this appeal.

3. The main contention of the ld. DR is that the Commissioner (Appeals) modified the demand of duty on the ground that the amount of duty of Rs.58,457/- was debited by them in RG-23 Part-II Account. He submits that the respondent had not placed the evidences before the Original Authority. He further submits that the Commissioner (Appeals) had not given the details of the debit entry in the RG-23 Part-II Account.

4. On perusal of the impugned order, I find that there is no reference to the debit entries in the RG-23 Part-II Account. It is also noted that the respondent had not produced any evidence on this issue before the Original Authority. In view of that, the matter is required to be examined by the Original Authority. Accordingly, the impugned order is set aside. The matter is remanded back to the Original Authority to decide afresh after considering the facts of the case. Thus, the appeal filed by the Revenue is allowed by way of remand.

Order dictated & pronounced in open court on 20.04.2009.

(P.K. Das)
Member (Judicial)

Ckp.