

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/1639/2007 – SM [BR]

Date 06/05/2009

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

To :
C.C.E. ROHTAK
SCO NO 6, , SECTOR 1, ROHTAK.
C.C.E. ROHTAK

M/S MATTA YARNS PVT. LTD

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of **Final order No. 350 / 2009 –SM[BR]** dated 23.4.2009
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 MATTA YARNS PVT. LTD

KHASRA NO 293, WARD NO -10, PANIPAT

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 Publications 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 Kuni, 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 (Harvana)

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.1639 of 2007-SM (BR)

[Arising out of common Order-in-Appeal No.249/SSS/RTK/2007 dated 25.04.2007 passed by the Commissioner of Central Excise (Appeals), Gurgaon]

Date of Hearing/ Decision:23.04.09

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? | : | Yes |
| 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, Rohtak (Haryana)

....Appellant

[Rep. by Shri R.K. Verma, Advocate]

Vs.

M/s.Matta Yarns (P) Ltd.

...Respondent

[Rep. by None.]

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

Final Order No. 350/09-SM (BR) /Dated:23.04.2009

Per P.K. Das:

Heard the Id. DR on behalf of the Revenue. None appears on behalf of the respondent.

2. After hearing the Id. DR and on perusal of the records, it is seen that the Commissioner (Appeals) set aside the order of the Original Authority holding that the jurisdictional Commissioner rejected the application for remission of duty and, therefore, the Original Authority has no power to decide the same matter as it was already decided by the competent authority.
3. On perusal of the order of the Original Authority, I find that the demand of duty of Rs.1,58,700/- was confirmed in view of rejection of the application for remission of duty by the Commissioner of Central Excise, Rohtak in respect of inputs destroyed in fire on 26.03.2004. Thus, it appears that the Original Authority confirmed the demand of duty on the ground that the application for remission of duty was rejected by the Commissioner. Hence, the order of the Commissioner (Appeals) is not sustainable.
4. I find that the Commissioner (Appeals) decided the matter without going into the merits of the case. Hence, I set aside the order of the Commissioner (Appeals) and sent back the matter to him to decide afresh on merits. The appeal is allowed by way of remand.

Order dictated & pronounced in open court on 23.04.2009.

(P.Ķ. Das)
Member (Judicial)

Ckp.