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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/2239/2006 – SM[BR] Date 20/05/2009

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

To :
M/S J SONS ENGG CORPN INDIA

J SONS HOUSE,GARH ROAD, MEERUT. (U.P)

M/S J SONS ENGG CORPN INDIA Appellant

Vs

CCE,MEERUT-I Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 415 / 2009 –SM[BR] dated 1.5.2009

passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent

   CCE,MEERUT-I

   MANGAL PANDEY NAGAR MEERUT
2. Adv. / Consult
   MR.KAMALJEET SINGH

   J-144, PATEL NAGAR -I,GHAZIABAD.

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)
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Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI

CENTRAL EXCISE APPEAL NO. 2239 OF 2006-SM

[Arising out of common Order-in-Appeal No. 144-CE/APPL.MRT-1/05 dated 29.07.2005 passed by the Commissioner of Central Excise (Appeals), Meerut-1]

For approval and signature:

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

1.	Whether Press Reporters may be allowed to see the order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	NA
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

M/s. J. Sons Engg. Corpn. (India) Appellants

Vs.

CCE, Meerut Respondent

Appearance:

Shri Kamaljeet Singh, Advocate for the appellants;
Shri S. Gautam, D.R. for the Revenue

Coram:

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

Date of hearing/decision: 1st May, 2009

FINAL ORDER NO. 415/09-SM(BR) **dated** 1.5.09

Per P.K. Das:

The relevant facts of the case, in brief, are that the appellants are engaged in the manufacture of 'Bridge Bearings' classifiable under Heading No. 73.08 of the Schedule to the Central Excise Tariff Act, 1985. On 26.3.2003 Central Excise Officers intercepted a mini-truck at about 2.30 a.m. coming out of the factory of the appellants. The driver of the truck produced delivery challan No. 53 dated 25.03.2003 showing the time of removal as 4 p.m. and bearing description of goods as bridge bearings issued by J. Sons (India) dispatched to M/s. Radhey Shyam Bhaker & Co., Gwalior. Shri Sanjay Gupta, C.A. of the appellant company in his statement dated 26.3.2003 stated that the said truck came to their factory for load testing of bridge bearings for job work. He also stated that the goods are owned by M/s. J. Sons (India). Shri Shalabh Gupta, proprietor of M/s. J. Sons (India) in his statement dated 27.3.2003 stated that on 23.3.2003 at about 4 p.m. they sent the material to the appellant company for load testing. But the appellants failed to produce any evidence covering the movement of the goods from the factory of M/s. J. Sons (India) to the appellant company. Therefore, the goods were seized. The original authority confiscated the goods valued Rs. 1,15,980/- and imposed redemption fine of Rs. 30,000/- and also confirmed demand of Rs. 15,557/- and also imposed penalty of equal amount. The Commissioner (Appeals) upheld the adjudication order.

2. Learned Advocate on behalf of the appellants submits that there is no evidence that the goods were manufactured by them. He further submits that the statement recorded on the spot clearly indicates that the goods were supplied by M/s. J. Sons (India) to the appellants for job work.

3. Learned D.R. reiterates the findings of the Commissioner (Appeals). He submits that the appellants claimed that the goods are received by them for job work. But they failed to produce even a single evidence on record to show that the goods were received by them for job work inasmuch as challan, etc.

4. After hearing both sides and on perusal of the records, I find that the appellants are engaged in the manufacture of Bridge bearings. The claim of the appellants that they received the finished product, i.e. Bridge bearing for job work ~~was~~ and received from M/s. J. Sons (India). I agree with the findings of the Commissioner (Appeals) that they failed to produce the requisite challan/document covering the movement of the goods from the factory of M/s. J. Sons (India) to the factory of the appellants. Therefore, the claim of the appellants cannot be accepted. Hence, confiscation of the goods and imposition of penalty are justified. However, I agree with the learned Advocate that the amount of fine and penalty are excessive. In this context, learned Advocate submits that the seized goods were released provisionally and they cleared the same on payment of duty. After considering the facts and circumstances of the

case, I reduce the amount of redemption fine and penalty to Rs. 15,000/- and Rs. 5,000/- respectively. Appeal is disposed of in above terms.

(Dictated & pronounced in the Open Court.)

(P.K. DAS)
MEMBER (JUDICIAL)

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