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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/1021/2007-SM[BR] Date 01/06/2009

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

To :
C.C.E ALLAHABAD

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

C.C.E ALLAHABAD Appellant

Vs

M/S TRIVENI GLASS LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 500/ 2009 –SM[BR] dated 15.5.2009

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

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent

M/S TRIVENI GLASS LTD.

IRADATGANJ, ALLAHABAD, (U.P.)
2. Adv. / Consult SHRI RAVI RAGHAVAN ADV.
B-6/10, SAFDARJUING ENCLAVE NEW DELHI

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.1021 of 2007 –SM (BR)

[Arising out of common Order-in-Appeal No.6-CE/ALLD/2007 dated 22.01.2007 passed by the Commissioner of Central Excise (Appeals), Allahabad (U.P.)]

Date of Hearing:15.05.2009
Date of Decision:15.05.2009

For approval and signature:

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

1. 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, Allahabad (U.P.) ....Appellants
[Rep. by Shri S. Gautam, DR]

Vs.

M/s. Triveni Glass Ltd. ...Respondent
[Rep. by Shri R. Raghavan, Advocate]

CORAM: **Mr. P.K. Das, Member (Judicial)**
Final Order No.500/09-SM(BR)/Dated:15.05.2009

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

After hearing both the sides and on perusal of the records, it is seen that the Credit was disallowed on Furnace Oil destroyed in fire, which had broken out in the assessee's factory. The Original Authority disallowed the credit of Rs.65,957/- and imposed penalty of equal amount. The Commissioner (Appeals) upheld the denial of credit and reduced the penalty to Rs.20,000/-. The assessee filed appeal against the order of the Commissioner (Appeals). Revenue also filed appeal for enhancement of the penalty.

2. Ld. Advocate on behalf of the respondent submits that by Final Order No.1571/2008-SM (BR) dated 26.11.2008, the Tribunal rejected the appeal filed by the respondent and upheld the denial of credit and penalty.

3. After hearing both the sides, I find that the Tribunal vide Final order dated 26.11.2008 upheld the penalty imposed by the Commissioner (Appeals). Apart from that in this case, the credit was denied on Furnace Oil, which was duly recorded in the register. There is no suppression of facts with intent to evade penalty and, therefore, imposition of penalty under Section 11 AC of the Central Excise Act is not warranted. Hence, I do not find any reason to interfere the order passed by the Commissioner (Appeals). Accordingly, the appeal filed by the Revenue is rejected.

[Order pronounced in open court on 15.05.2009.]

(P.K. Das)
Member (Judicial)

Ckp.