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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/2557/2007 – SM[BR] Date 15/07/2009

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

To :
M/S KOTHARI WIRE INDUSTRIES
3,SUDERSHAN INDUSTRIAL AREA, JAIPUR

M/S KOTHARI WIRE INDUSTRIES Appellant
Vs
C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 696 / 2009 –SM[BR] dated 8.7.2009

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

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
   C.C.E. JAIPUR I
   N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME, JAIPUR 302005.
2. Adv. / Consult
   SHRI BIPIN GARG ADV.
   B-1/1289-A, VASANT KUNJ 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 & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI

COURT – III

CENTRAL EXCISE APPEAL NO. 2557 OF 2007-SM

[Arising out of Order-in-Appeal No. 247(GRM) CE/JPR-I/2007 dated 13.8.2007 passed by the Commissioner (Appeals), Central Excise, Jaipur]

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?	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

M/s. Kothari Wire Industries — Appellants

Vs.

CCE, Jaipur-I — Respondent

Appearance:

Shri Bipin Garg, Advocate for the appellants;
Shri S.N. Srivastava, D.R. for the Revenue

Coram:

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

Date of hearing/decision: 8th July, 2009

FINAL ORDER NO. 696/2009 **dated** SM (Br)

Per P.K. Das:

After hearing both sides and on perusal of the records, learned Advocate fairly submits that the issue involved in this case is demand of duty on rejection of remission application in respect of theft. He submits that the Larger Bench of the Tribunal in the case of Gupta Metal Sheets vs. CCE, Gurgaon, reported in 2008 (232) ELT 796 (Tri.-LB) held that theft or dacoity not a natural cause and not an unavoidable accident – Goods lost in theft or dacoity is not eligible for remission. He submits that the issue was interpretation of law and was decided by the Larger Bench of the Tribunal and, therefore, imposition of penalty is not warranted.

2. I find that the appeal relates to the demand of duty of Rs. 41,289/- and imposition of penalty. Further, in view of the decision of the Larger Bench of the Tribunal, learned Advocate is not contesting the demand of duty. As the issue relates to the interpretation of law penalty is not warranted. Accordingly, demand of duty is upheld and penalty is set aside. Appeal is disposed of in above terms.

(Dictated & pronounced in the Open Court.)

(P.K. DAS)
MEMBER (JUDICIAL)

RK