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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/362 /2007 – SM[BR] Date 14/10/2009

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

To :
C.C.E, CHANDIGARH
C.R.BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH.

C.C.E, CHANDIGARH — Appellant

Vs

ANAND STEEL ROLLING MILLS. — Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1239 / 2009 –SM[BR] dated 9.9.2009

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

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent

ANAND STEEL ROLLING MILLS.
MANDI GOBINDGARH

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)
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Assistant Registrar
(SM Appeal Branch)

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

Appeal No.E/362 of 2007 of SM (BR)

[Arising out of Order-in-Appeal No.1089/CE/CHD/06 dated 21.12.2006 passed by the Commissioner of Central Excise (Appeals), Chandigarh]

Date of Hearing/ Decision:09.09.09

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? :

3. Whether Their Lordships wish to see the fair copy of the Order? : No

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

CCE, Chandigarh ...Appellants
[Rep. by Shri V.K. Saxena, Jt. CDR]

Vs.

M/s. Anand Steel Rolling Mills ...Respondent
[Rep. by none.]

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

Final Order No..1239/2009 SM (BR)/Dated:09.09.2009

Per P.K. Das:

Revenue filed this appeal against the order of Commissioner (Appeals), whereby the Revenue appeal was dismissed.

2. Heard the ld. Jt. CDR on behalf of the Revenue. None appeared on behalf of the respondent.

3. After hearing the ld. Jt.CDR and on perusal of the records, it is seen that there was delay in depositing the duty by the respondent for months of August and November, 1999 of Rs.17,965/- for each month. The Original Authority imposed penalty of Rs.10,000/- under Rule 96 ZP (3) of the erstwhile Central Excise Rules, 1944 read with Section 3 A of the Central Excise Act, 1944. Revenue filed appeal before the Commissioner (Appeals) to impose penalty of equal amount of duty as provided under Rule 96 ZP(3). The Commissioner (Appeals) dismissed the appeal filed by the Revenue. Hence, the Revenue filed this appeal.

4. After hearing the ld. Jt. CDR and on perusal of the records, I agree with the submission of the ld. Jt. CDR. The Hon'ble Supreme Court in the case of Union of India Vs. Dharamendra Textile Processors reported in 2008 (231) ELT 3 (SC) held that there is no discretion of the court to reduce the penalty under Rule 96ZP(3). Hence, the matter is required to be examined in the light of the decision of the Hon'ble Supreme Court cited (supra).

5. In view of the above, I set aside both the orders. The matter is remanded back to the Original Authority to decide afresh in the light of the decision of the Hon'ble Supreme Court in the case of Dharamendra Textile (supra). The appeal filed by the Revenue is allowed by way of remand.

Order dictated & pronounced in open court on 09.09.2009.

(P.K. Das)
Member (Judicial)

ckp