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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/3147 -3149 / 2006 & E/ 1977 / 2006 -SM[BR] Date 29/10/2009

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

To :
C.C.E.INDORE

P.B. NO 10,MANIK BAGH PALACE,INDORE.

C.C.E.INDORE Appellant

Vs

M/S M.G.M. TOOLS PVT LTD Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1333 – 1336 / 2009–SM[BR] dated 14.10.2009 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
   1: M/S M.G.M. TOOLS PVT LTD
   2. SHRI S.N. GADIA DIRECTOR
   3. SHRI DILIP MEHTA, DIRECTOR
   SECTOR-I,SDA INDUSTRIAL AREA,SANWER ROAD,INDORE.

   [4] M/S POLYMERMANN [ASIA] PVT.LTD.
   PLOT NO. E-79 MIDC AREA, AMBAD
   NASIK [MH]

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)
16 Office Copy
17 Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R. K. Puram, New Delhi
COURT-III

Date of hearing/decision: 14.10.2009

Excise Appeal No. 3147-3149 of 2006-SM & E/1977/06-SM

[Arising out of order-in-Appeal No. IND-I/236 to 238/2006 dated 23.6.06 & IND-I/121/2006 dated 23.3.06 passed by the Commissioner (Appeals), Customs & Central Excise, Indore]

For approval and signature:

Hon'ble Shri 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 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, Indore — Appellant

Vs.

M/s M.G.M. Tools Pvt. Ltd. — Respondent
Shri S.N. Gadia, Director
Shri Dilip Mehta, Director
M/s Polymermann (Asia) Pvt. Ltd.

Appearance:
Appeared for the Appellant – Shri S.K. Bhaskar, SDR

Appeared for the Respondent- None

Coram: Hon'ble Shri P.K. Das, Member (Judicial)

Final Order No. 1333-1336/2009 SM(Br)

Per: P.K. Das:

Common issue is involved in these Appeals and therefore, all are being taken up together for disposal.

2. Heard ld. SDR on behalf of the Revenue. None appears on behalf of the Respondent. It is seen from the record that these matters were adjourned for several occasions, but none appeared on behalf of the Respondent.

3. After hearing ld. SDR and on perusal of the records, I find that the Adjudicating Authority confirmed the demand of Central Excise duty amounting to Rs. 7,82,702/- in terms of Section 11D of Central Excise Act 1944 and also imposed penalties on the Respondents.

4. The ld. SDR submits that the Commissioner (Appeals) set aside the penalties on all the Respondents without appreciation of the facts of the case. He also submits that the duty was set aside without considering the statement of the Respondents. In the grounds of Appeal filed by the Revenue, it is stated that Commissioner (Appeals) had not appreciated the fact that Shri Dilip Mehta Respondent No. 3 admitted in his statement dated 16.7.2001 & 18.7.2001 and stated that Respondent No. 1 had collected excise duty of Rs.7,82,702/- from M/s Polymermann Asia Pvt. Ltd., Nasik. It is also stated in the grounds of Appeal that the Respondents have not disputed the fact that they have issued fake invoices and collected money from M/s Polymermann (Asia) Pvt. Ltd., Nasik.

5. On perusal of the records, I find that the Respondents had not filed ~~found~~ any objection against the grounds of Appeal of the Revenue. Hence, the grounds of Appeal taken by the Revenue are to be examined by the Commissioner (Appeals). Accordingly, the impugned orders of the Commissioner (Appeals) are set aside. All

the matters are remanded back to the Commissioner (Appeals) to decide after considering the grounds of Appeal filed by the Revenue. Needless to mention that the Commissioner (Appeals) shall be given reasonable opportunity of hearing before deciding the matter. All the Appeals filed by Revenue are allowed by way of remand.

(Dictated & pronounced in open Court)

(P.K. DAS)
MEMBER (JUDICIAL)

RM