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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/1661/2009 – SM[BR] Date **11/01/2011**

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

To :
C.C.E. KANPUR
117/7, SARVODAYA NAGAR, KANPUR 208005.

C.C.E. KANPUR Appellant

Vs

SH M.I.ANSARI,AUTHORISED SIGNATORY Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 31 /2011- **SM[BR]** dated 5.1.2011 passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
SH M.I.ANSARI,AUTHORISED SIGNATORY
SUPERIOR FABRICS, 14/37,
GWALTOLI, KANPUR.
2. Adv. / Consult
NONE:----------------
3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise, I.P. Estate, New Delhi
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. M/s. Deeparchie Publications, M-93, Marg, 46, Saket, New Delhi 110017
9. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005
10. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
11. LAWCRUX Advisors Pvt Ltd. LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
12. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
13. Office Copy
14. Guard file

Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI PRINCIPAL BENCH, COURT NO. III

Excise Appeal No. 1661 of 2009-SM(BR)

[Arising out of Order-in-Appeal No. 38-39/CE/APPL/KNP/2009 dated 13.3.2009 passed by the Commissioner of Central Excise (Appeals), Kanpur]

For approval and signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)

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1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? : NO

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? : Seen

4. Whether Order is to be circulated to the Departmental authorities? : No

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Commissioner of Central Excise. Kanpur — Appellants

Vs.

Shri M.I. Ansari — Respondent

Appearance:

Shri Krishna Pratap Singh, SDR for the Appellants
None for the Respondent

Date of Hearing/decision : 05.01.2011

Final **ORAL ORDER NO. 31/2011 SM(BR)**

Per M. Veeraiyan:

This is an appeal filed by the Department against the order of the Commissioner (Appeals) in so far as the same related to setting aside the penalty of Rs.10,000/- on the authorised signatory who is the respondent.

2. Heard the learned SDR. None appeared for the respondents inspite of notice.

3. The respondent was an authorised signatory of M/s. Superior Fabrics . When the officers visited the factory premises on 27.2.07, they found shortage of inputs valued at Rs.3,07,950/- and duty involved on short found goods stands confirmed and penalty imposed on M/s. Superior Fabrics by the original authority. The original authority also imposed penalty of Rs.10,000/- on the authorised signatory. The Commissioner (Appeals) while sustaining the demand and penalty on M/s. Superior Fabrics, set aside the penalty on the respondent holding that he could not be directly held responsible for the discrepancies in stocks and penalty under Rule 26 of the Central Excise Rules could not be imposed against him without assigning his specific role in the evasion.

4. The records do not indicate knowledge on the part of the respondent in clearing any goods clandestinely except his admission that there was shortage during stock taking. The grounds of appeal which have been reiterated by the learned SDR do not contain any material to contradict the factual finding by the Commissioner (Appeals) in this regard. This appeal appears to have been filed without proper appreciation of facts.

5. In view of the above, I do not find any merit in the appeal of the Department. The appeal is rejected.

(M. Veeraiyan)
Member(Technical)

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