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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/1910/2008 – SM[BR]** Date **27/06/2011**

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

To :
M/S SWARAJ FOUNDRY DIVISION
VILLAGE-SIALBA MAJRI, DISTRICT-ROPAR.

M/S SWARAJ FOUNDRY DIVISION Appellant
Vs
C.C.E. LUDHIANA Respondent

I am directed to transmit herewith a certified copy of **Final order No. 342 / 2011-SM[BR]** dated 21.6.2011 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. LUDHIANA
CENTRAL EXCISE HOUSE, 'F'
BLOCK, RISHI NAGAR,
LUDHIANA 141001 (PUNJAB)

2. Adv. / Consult
MR.V. LAXMIKUMARAN
B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New
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. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi -
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file

Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

COURT NO. II

Date of Hearing : 21.6.2011

Excise Appeal No. 1910 of 2008-SM

[Arising out of the Order-in-Appeal No. 157/CE/REV./LDH/2008 dated 4.6.2008 passed by the Commissioner (Appeals), Central Excise, Chandigarh]

Coram:

Hon'ble Mr. Mathew John, Member (Technical)

1.	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	Yes
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 Whether their Lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	No

M/s Swaraj Foundry Division — Appellant

Vs.

CCE, Ludhiana — Respondent

Appearance:

Appeared for Appellant : Shri Hemant Bajaj, Advocate
Appeared for Respondent : Ms. Renu Jagdave, SDR

CORAM: Hon'ble Mr. Mathew John, Member (Technical)

Final Order No. 342/2011 SM (BR) dated............

Per Mathew John:

The Appellants are manufacturers of rough cast articles falling under Chapter Heading NO. 7325.10 of Central Excise Tariff. For this manufacturing activity, they get melting scrap from various sources including M/s Anshul Steel Scrap Corporation and M/s A.K. Trading Co. (P) Ltd. who are the first stage dealers. The registered dealers were getting part of their consignments from a manufacturer named M/s I.S. Steel & Agro Industries. Investigations were conducted at the end of M/s I.S Steel and Agro Industries. Statement of the proprietor Shri Anil Kumar Singla was recorded. In his statement he stated that in some cases he had issued invoices to the registered dealers without goods accompanying the invoices. Based on this statement, Revenue made out a case that all the invoices issued by these two registered dealers to the Appellants were fraudulent and there were no goods accompanying the invoices. A show cause notice was issued and the matter was adjudicated. The Adjudicating Authority came to the conclusion that the invoices issued by the registered dealers to the Appellant were not proved to be fraudulent. Aggrieved by the order, the department filed an appeal with the Commissioner (Appeals). The Commissioner (Appeals) confirmed the duty demand based on the statement of Shri Anil Kumar Singla. Aggrieved by the order of the Commissioner (Appeals), the Appellant is before this Tribunal.

2. Heard arguments on both the sides and perused the record.

3. The statement of the manufacturer is only to the effect that in some cases he had issued invoices without goods accompanying

the invoices. He did not mention which were invoices so issued. Therefore, to conclude that invoices issued by the two registered dealers to the Appellants were fraudulent is a very stretched argument. The registered dealer might have supplied the goods from raw materials actually received from the said manufacturer or from other manufacturers. Since the Appellant is a Government company it is not likely that the Appellant will be doing any fraudulent activity. At any rate, the evidence that has been adduced is not good enough to conclude that the invoices issued to the Appellant were fraudulent. Therefore, I come to the conclusion that the case made out against the Appellant is not proved and the order of the Commissioner (Appeals) is set aside with consequential relief, if any, to the Appellant.

(Dictated & pronounced in open Court)

(Mathew John)
Member (Technical)

RM