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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/1443/2009 – SM[BR] **Date 20/12/2011**

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

To :
C.C.E. RAIPUR
CENTRAL EXCISE BUILDING, DHAMTARI ROAD,
TIKRAPARA, RAIPUR 492001.
C.C.E. RAIPUR Appellant

Vs

M/S RAMESH STEEL INDUSTRIES, Respondent

I am directed to transmit herewith a certified copy of **Final order No. 894 / 2011-SM[BR]** dated 30.11.2011 passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
M/S RAMESH STEEL INDUSTRIES,
TATIBANDH, RAIPUR (C.G.)

2. Adv. / Consult **MRS. SUKRITI DAS ADV.**
B-1/1289-A, VASANT KUNJ NEW DELHI

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)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066

COURT NO. II

Central Excise appeal No. 1443/2009-SM

[Arising out of Order-in-Appeal No. 33/RPR-I/2009 dated 26.03.2009 passed by the Commissioner (Appeals-I), Central Excise, Raipur].

Date of Hearing: 30th November, 2011

For approval and signature:

Hon'ble Shri D.N. Panda, Judicial Member

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?	
3	Whether Their Lordships wish to see the fair copy of the Order?	
4	Whether Order is to be circulated to the Departmental authorities?	

CCE, Raipur — Appellant

Vs.

M/s. Ramesh Steel Industries — Respondent

Present for the Appellant : Shri Fateh Singh, D.R.
Present for the Respondent : Mrs. Sukriti Das, Advocate

Coram: Hon'ble Shri D.N. Panda, Judicial Member

FINAL ORDER NO. 894/2011-SM (BR)

Per D.N. Panda:

Revenue has come in appeal on the ground that the learned Commissioner should not have granted relief to the respondent on limitation issue.

2. Factually both sides agreed that reply to audit objection was given on 19.1.2007 and the show cause notice was issued on 30.9.2008.

3. Learned D.R. submits that when this suppression was established learned Commissioner (Appeals) should not have given relief on the issue of limitation.

4. Learned Counsel for the respondent submits that both on merit and limitation the respondent has a good case since all the material facts were disclosed in the balance sheet.

5. Heard both sides and perused the record.

6. So far as argument of learned D.R. on limitation is concerned, it may be stated that the audit objection came to the notice of Revenue before 19.1.2007. Reading of para 5 of appellate order does not establish any willful intention of the respondent to evade payment of duty. When such is the fact, the respondent shall get benefit of notice period of one year as has been held in Para 24 of the judgement of Apex Court in the case of CCE, Vishakhpatnam vs. Mehta & Co. - 2011 (264) ELT 481 (S.C.). In view of the issuance of show cause notice from the dates stated aforesaid the adjudication is time barred.

7. Consequently, appeal of Revenue is dismissed.

(Pronounced in the open Court)

(D.N.PANDA)
JUDICIAL MEMBER

RK