

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
SINGLE MEMBER APPEAL BRANCH

Date 12/05/2010

Appeal No. E/1495/2008 - SM[BR]

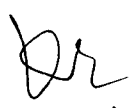
Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S ASHOKA INDUSTRIES
F-105, ROAD NO. 5, IPIA, KOTA (RAJ.)
M/S ASHOKA INDUSTRIES

Appellant
Vs
Respondent

C.C.E. JAIPUR I

I am directed to transmit herewith a certified copy of Final order No. 506 / 2010 - SM[BR] dated 7.5.2010 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. JAIPUR I

N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME, JAIPUR 302005.

2. Adv. / Consult

MR. BIPIN GARG ADV.

B-1/1289-A, VASANT KUNJ NEW DELHI-70.

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 Publications Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3

8 Company Law Institute of India Pvt Ltd., No.2 (Old No. 36), Vaithyaram Street, T. Nagar, Chennai - 17

9 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017

10 Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005

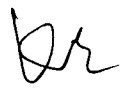
11 Easy Service Tax Online Dot Com Pvt.Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-15

12 LAWCRUX Advisors Pvt Ltd. LAW House. 1-8, Sector - 10, Faridabad 121003 (Harvana)

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MANDELA ROAD, VASANT KUNJ, NEW DELHI -70.


Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

COURT NO. II

Excise Appeal No. 1495 of 2008-SM

(Arising out of Order-in-Appeal No. 90(RKS)CE/JPR-I/2008 dated 17.4.2008 passed by the Commissioner (Appeals), Customs & Central Excise, Jaipur)

M/s Ashoka Industries

Appellant

Vs.

CCE, Jaipur-I

Respondent

Appearance:

Appeared for Appellant : None

Appeared for Respondent : Shri S. Gautam, SDR

Date of Hearing: **5.5.2010**

CORAM: HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER

final Order No. 506 / 2008 SM (B2) dated.....

Per D.N. Panda:

None present for the Appellant.

2. Ld. DR Shri Gautam assists submitting that duty element was paid in this case at the time of issuance of Show Cause Notice. Penalty being properly imposed, no interference may be made.
3. Heard the Id. DR and perused the record.
4. Ld. Appellate Authority has examined the issue of abuse of Cenvat credit by the Appellant in para-6 of the first Appellate order.

Having considered that the case did not warrant for interference, he dismiss the appeal. Ld. Adjudicating Authority imposed two types of penalty. The first one is under Section 11AC of Central Excise Act 1944 to the tune of Rs.31,616/-. The second one is penalty of Rs.10,000/- under Rule 15 of Cenvat Credit Rules, 2004. Ld. Commissioner granted relief to the Appellant in respect of penalty of Rs.10,000/-.

3. In view of the finding of the Id. Commissioner on abuse the Cenvat credit, there is no necessity to grant any relief on that count to the Appellant and no interference to his order is called for. So far as penalty of Rs.31,616/- is concerned, the Appellant deserves consideration under third proviso to Section 11AC of the Central Excise Act, 1944 to reduce the same to 25% to the duty demand since duty was deposited as apparent from (ii) of the operative part of the adjudication order. Therefore penalty imposed under Section 11AC is reduced to 25% of the duty element. In the result, the Appellant gets partial relief as above.

(Dictated & pronounced in open Court)

(D.N. PANDA)
JUDICIAL MEMBER

RM