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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/2587/2008 – SM[BR] Date 07/12/2010

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

To :
C.C.E. CHANDIGARH
C.R. BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH 160017
C.C.E. CHANDIGARH Appellant

Vs

SHRI NARINDER SINGH, DIRECTOR OF Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1372 / 2010-SM[BR] dated 29.11.2010 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
SHRI NARINDER SINGH, DIRECTOR OF
M/S NARINDRA CASTING PVT. LTD., B-5-B-6, FOCAL POINT, MANDI GOBINDGARH.
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 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 (Haryana)
13 TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
14 Office Copy
15 Guard file

Assistant Registrar
(SM Appeal Branch)

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

Excise Appeal No.2587 of 2008-SM

(Arising out of Order-in-Appeal No.496-497/CE/CHD/2008 dated 23.09.2008 passed by the CCE (A), Chandigarh)

Date of Hearing/Decision: 29.11.2010

For approval and signature:
Hon'ble Mr.M.Veeraiyan Member (Technical)

1	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	Yes
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
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?	Yes

CCE, Chandigarh — Appellant

Vs.

Shri Narinder Singh, Director of M/s.Narindra Casting (P) Ltd. — Respondent

Present for the Appellant : Shri Anil Khanna, SDR
Present for the Respondent: None

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

Final **ORDER No.** 1372/2010 SM (BR)

PER: M.VEERAIYAN

Heard learned SDR.

2. This appeal by the department is against the order of the Commissioner (Appeals) by which the penalty of Rs.10,000/- imposed by the original authority on the respondent director was set aside by the Commissioner(Appeals).

3. There was unexplained shortage of finished goods and when verification conducted in the factory premises, the duty on the

shortage stands paid. The original authority confirmed the demand of duty and imposed equal amount of penalty. The Commissioner (Appeals) upheld the demand of duty and penalty to the extend of 25%. He set aside the penalty on the respondent director. The department seeks restoration of penalty imposed on the respondent director. The liability of the company to duty and penalty is not disputed before me.

4. On perusal of the show cause notice, it is noticed that no evidence attributing knowledge or intention on the part of the respondent is relied upon. The statement of the respondent director was to the effect that they were recording of production on average basis, and that they have not taken any stocktaking. The statement by him do not show that there was any knowledge of clandestine removal on the part of the respondent –director. Therefore, the Commissioner (Appeals) while upholding the demand of duty against the company has rightly set aside the penalty on the respondent director. The grounds of appeal do not adduce any material which can upset the finding of fact by the Commissioner (Appeals).

4. The appeal filed by the department is rejected.

(Dictated and Pronounced in the open court)

(M.VEERAIYAN)
MEMBER (TECHNICAL)

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