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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/851 – 852 / 2008 –SM[BR] Date 05/03/2010

Assistant Registrar
C.E.S.T.A.T, New Delhi
To :
1. M/S VEER VISION PVT. LTD.
2. SHRI JAIDEEP SACHDEVA
PLOT NO. 30, SECTOR-V,PARWANOO, DISTT. SOLAN
(H.P.)

M/S VEER VISION PVT. LTD. Appellant

Vs

C.C.E. CHANDIGARH Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 280 -281 / 2010-SM[BR] dated 26.2.2010 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. CHANDIGARH
C.R. BUILDING, PLOT NO. 19, SECTOR 17-C, CHANDIGARH 160017
2. Adv. / Consult
MR.JOY KUMAR
FLAT NO 261/1,SEC 45-A,CHANDIGARH.
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 Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9 Raghuraman's 44-B. Regal Flat.Shipra Suncity. Indirapuram - 201010.Ghaziabad. DT. U.P.
10 M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)
11 M/s. Deeparchie Publications. M-93. Marg. 46. Saket. New Delhi 110017
12 Taxindiaonline.com Pvt.Ltd. B-XI/8183.Vasant Kunj. New Delhi - 110070
13 Taxmann Allied Service Pvt Ltd.. 21/35. West Punjabi Bagh. New Delhi - 110026
14 Easy Service Tax Online Dot Com Pvt.Ltd.407A.Iscon Mall.Above Star India Bazar.Satellite Road.Ahmedabad-15
15 LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Haryana)
16 Office Copy
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Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No.851-52/08-SM(Br)

(Arising out of order in appeal No.39-40/CE/Chd/2008 dated 22.1.08 passed by the Commissioner of Central Excise (Appeals), Chandigarh)

1. M/s Veer Vision (P) Ltd — Appellant
2. Shri Jaideep Sachdeva

Vs

CCE, Chandigarh — Respondent

Appeared for Appellant : None
Appeared for Respondent : Shri S.N. Srivastava, SDR

Date of Hearing: 9.2.2010

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

Final Order No. 280-281 /2010 SM (Br)

Per D.N. Panda:

None appeared for the appellants.

2. First appellant faced duty demand of Rs.40,145/- under Section 11A of Central Excise Act, 1944 and that was discharged through entry No. 24 dated 13.10.2001 in RG-23A Part II. Shri Jaideep Sachdeva Director who is second Appellant has faced penalty of Rs.40,145/- under unwontedly Rule 26 of Central Excise Rules, 2002.

3. Learned DR Shri Srivastava appearing for Revenue submits that the appellant company had no defence against the shortage of the goods found in the course of investigation. When there was

no defence led against the shortage found, learned Commissioner (Appeals) confirmed the demand and rightly imposed penalty on the company as well as the Director.

4. Heard the learned DR and perused the record.

5. Para 4 of the appellate order throws light that the appellant in respect of shortage of inputs found did not contest to prove their bonafide that the goods were not removed clandestinely without payment of duty. They contested only on penalty for which learned first appellate authority decided the limited issue of penalty. When the Appellant does not appear and contest the very liability to duty, there is no scope to touch the merit of levy of duty by this order. When shortage was found and that was held so by two concurrent findings of authority below, that cannot be disturbed without any cogent evidence to the contrary. Accordingly, penalty has to follow for the breach of law committed. The learned Commissioner is therefore, right in his decision. There is no scope to interfere with the matter. The Commissioner having passed a speaking order, both the appeals are dismissed.

(Order dictated and pronounced in the open Court).

(D.N. Panda)
Judicial Member

MPS*