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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/2076/2008 – SM[BR] Date 22/09/2010

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

To :
M/S OCEAN METALS PVT. LTD.
GAUSHALA ROAD,JAITU-151202.

M/S OCEAN METALS PVT. LTD. Appellant
Vs
C.C.E. LUDHIANA Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 997 /2010-SM[BR] dated 8.9.2010 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. LUDHIANA
   CENTRAL EXCISE HOUSE, 'F' BLOCK, RISHI NAGAR, LUDHIANA 141001 (PUNJAB)
2. Adv. / Consult
   MR.RAJESH CHHIBBER
   FA/9, NEW KAVI NAGAR, GHAZIABAD
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)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Excise Appeal No. 2076 of 2008-SM (BR)

[Arising out of Order-in-Appeal No. 184-185/CE/LDH/2008 dated 07.07.2008 passed by the Commissioner (Appeals) Central Excise, Chandigarh]

Date of Hearing/ Decision: 08.09.2010

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

M/s Ocean Metals Pvt. Limited ...Appellant

Vs.

CCE, Ludhiana ....Respondent

Appearance: Sh. Rajesh Chhibber, Advocate appeared for the appellant.
Shri Anil Khanna, DR appeared for the respondent.

CORAM: **Hon'ble M. Veeraiyan, Member (Technical)**

Final Oral Order No. 997/2010 SM (BR)

Per M. Veeraiyan:

This is an appeal against the order of the Commissioner (Appeals) No. 184-185/CE/LDH/2008 dated 07.07.2008.

2. Heard both sides.

3. When the officers visited the factory premises on 14.08.2001, they found 24 MT of MS Steel Tubes and Pipes in excess of accounted stock. The Officers visited the premises at about 10.40 a.m. on 14.08.2001. The claim of the appellant is that the excess found goods were of production of the previous night. The original authority has recorded as follows in respect of this claim by the party:-

> "No doubt the finished goods i.e. Pipes and Tubes weighing 24 MT were production of the night of 13.08.2001 but there were to be entered in the RG-1 register in the morning of 14.08.2001".

4. Thus, there is a clear finding by the original authority that the production was that of previous night. Learned DR was not able to show from the records that there was any time limit prescribed for entering the production except submitting that the same should have been entered in the morning of 14.08.2001. The claim of the appellant were that they commence the shift by 9 a.m. and the goods were about to be entered.

5. In the peculiar facts and circumstances of the case, confiscation of the goods (with option to redeem on payment of Rs. 20,000/-) is not justified. Order of the Commissioner (Appeals) in this regard is, therefore, set aside. The appeal is allowed with consequential relief as per law.

(M. Veeraiyan)
Member (Technical)

Pant