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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/2301- 2304 /2006 ,E /2590 -2592 /2006 , E/ 2764 – 2767/2006 ,E/ 2794 -2804/2006 Date 24/09/2010
E/ 2810 – 2824/2006 , E /2835/2006 , E/2919 -2922 /2006 ,E/2942 /2006 ,E/ 3009 /2006-SM[BR]

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

To :
TATA IRON & STEEL CO.LTD.
AMLOH ROAD, MANDI GOBINDGARH, PUNJAB

TATA IRON & STEEL CO.LTD. Appellant

Vs

C.C.E. CHANDIGARH Respondent

I am directed to transmit herewith a certified copy of **Final order** No.1047 – 1090 / 2010-SM[BR] dated 9.9.2010 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. CHANDIGARH
   C.R. BUILDING, PLOT NO. 19, SECTOR 17-C, CHANDIGARH 160017
2. Adv. / Consult SHRI KAMAL JEET SINGH ADV.
   J-144, PATEL NAGAR-I,
   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)

P.T.O →

2. Shri Sushanta Banerjee.
C/o M/s Tata Iron & steel Co. Ltd :-

3. M/s Adhunik Steel Ltd
Shivam Chambers
Old Post office Road
Mandi Gobindgarh.

4. Shri Nirmal Kumar Agarwal Director
M/s Adhunik Steel Ltd :-

5. Shri. Nirmal kumar Agarwal Director
M/s Adhunik Steel Ltd :-

6. M/s Gian Castings Pvt. Ltd
Grain Market Mandi Gobindgarh.

7. Shri Mohinder Gupta Director
M/s Gian Castings Pvt. Ltd :-

8. M/s B.D. Gupta & Sons
Motia Khan, Mandi Gobindgarh

9. M/s B.D. Gupta & Sons
Motia Khan, Mandi Gobindgarh

10. M/s B.D. Gupta & sons :-

11. M/s ~~B.D.~~ Gupta & Sons :-

12. M/s Adhunik Steel Ltd :-

13. M/s Adhunik Steel Ltd :-

14. M/s Adhunik Steel Ltd :-

15. M/s Nirmal Kumar Agarwal Director :-

16. M/s Nirmal kumar Agarwal Director :-

17. M/s Nirmal kumar Agarwal Director :-

18. M/s Tata Iron & steel Co. Ltd
Amloh Road Mandi Gobindgarh

19. Shri Sushanta Banerjee
C/o M/s Tata Iron & steel Co. Ltd :-

20. M/s Sushanta Banerjee
C/o M/s Tata Iron & steel Co. Ltd :-

21. M/s Tata Iron & steel Co. Ltd
Amloh Road Mandi Gobindgarh

22. Shri Sushanta Banerjee
C/o M/s Tata Iron & steel Co. Ltd :-

23. M/s Adhunik Ferro Alloys.
Shivam Chambers
Old Post office Road Mandi Gob.

24. M/s Adhunik Ferro Alloys Ltd :-

25. M/s Adhunik Steels Ltd :-

26. M/s Adhunik Steels Ltd :-

27. M/s Tata Iron & steel Co. Ltd :-

28. M/s Tata Iron & steel Co. Ltd :-

29. M/s Sushanta Banerjee
C/o M/s Tata Iron & steel Co. Ltd :-

30. Shri Sushanta Banerjee
C/o M/s Tata Iron & steel Co. Ltd :-

31. M/s Tata Iron & steel Co. Ltd :-

32. M/s Adhunik Steel Ltd :-

33. M/s Neeraj Steel ~~Ltd~~ (India)
C/o Adhunik Steel Ltd :-

34. M/s Nirmal Kumar Agarwal Director :-

35. M/s Nirmal Kumar Agarwal Director :-

36. M/s Neeraj Steel (India) :-

37. M/s Neeraj Steel (India) :-

38. Shri Hardev Singh Director
M/s Mithila Malleables (P) Ltd
Sirhind (Pb)

39. Shri Rajesh Kumar Gupta Prop.
M/s B.D. Gupta & Sons :-

40. M/s Rushil Alloys
Motia Khan Mandi Gobindgarh

41. Shri Rajesh Kumar Gupta Prop.
C/o M/s Rushil Alloys :-

42. M/s Rushil Alloys :-

43. M/s B.D. Gupta & Sons :-

44. Shri Sushanta Banerjee :-

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

Date of Hearing/Decision: 09.09.2010

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

Sl.No.	Appeal No.	Name of the Party	OIO No.	OIA No. passed by CCE (Appeals) Chandigarh.
1	E/2301/06	M/s.Tisco vs. CCE, Chandigarh	No.100/CE/DC/MGG/05 dt.30.12.05	No.333-372/CE/CHD/06 dt.28.4.06
2	E/2302/06	Shri Sushanta Banerjee vs. CCE,Chandigarh	do	Do
3	E/2303/06	M/s.Adhunik Steel Ld. Vs. CCE, Chandigarh	do	Do
4	E/2304/06	Shri Nirmal Kumar Agarwal vs. CCE, Chandigarh	do	Do
5	E/2590/06	do	No.87/CE/DC/MGG/05 dt.26.12.05	No.251-277/CE/CHD/06 dated 30.3.2006
6	E/2591/06	M/s.Gian Castings (P) vs. CCE, Chandigarh	No.104/CE/DC/MGG/05 dt.31.5.05	Do
7	E/2592/06	Shri Mohinder Gupta vs. CCE, Chandigarh	do	Do

8	E/2764/06	M/s.B.D.Gupta & Sons vs. CCE, Chandigarh	No.112/CE/DC /MGG/05 dt.31.1.05	No. No.453-492/CE/CHD/06 dated 30.5.06
9	E/2765/06	Shri Rajesh Kumar vs, CCE, Chandigarh	do	Do
10	E/2766/06	M/s.B.D.Gupta & Sons vs. CCE, Chandigarh	No.109/CE/DC /MGG/05 dt.31.1.05	Do
11	E/2767/06	Shri Rajesh Kumar Gupta vs. CCE, Chandigarh	do	Do
12	E/2794/06	M/s,Adhunik Steels Ltd. vs. CCE, Chadigarh	No.113/CE/DC /MGG/05 dt.31.1.05	Do
13	E/2795/06	Do	No.111/CE/DC /MGG/05 dt.31.1.05	Do
14	E/2796/06	Do	No.112/CE/DC /MGG/05 dt.31.1.05	Do
15	E/2797/06	Shri Nirmal Kumar Agarwal vs. CCE, Chandigarh	No.111/CE/DC /MGG/05 dt.31.1.05	Do
16	E/2798/06	do	No.112/CE/DC /MGG/05 dt.31.1.05	Do
17	E/2799/06	do	No.113/CE/DC /MGG/05 dt.31.1.05	Do
18	E/2800/06	M/s.TISCO vs. CCE, Chandigarh	do	Do
19	E/2801/06	Shri Sushanta Banerjee vs.CCE, Chandigarh	No.112/CE/DC /MGG/05 dt.31.1.05	Do
20	E/2802/06	Do	No.113/CE/DC /MGG/05 dt.31.1.05	Do
21	E/2803/06	M/s.TISCO vs. CCE, Chandigarh	No.112/CE/DC /MGG/05 dt.31.1.05	Do
22	E/2804/06	Shri Sushanta Banerjee vs. CCE, Chandigarh	No.111/CE/DC /MGG/05 dt.31.1.05	Do
23	E/2810/06	M/s.Adhunik Ferro Alloys Ltd. vs. CCE, Chandigarh	No.106/CE/DC /MGG/05 dt.31.1.05	do

24	E/2811/06	do	No.110/CE/DC /MGG/05 dt.31.1.05	do
25	E/2812/06	do	No.107/CE/DC /MGG/05 dt.31.1.05	Do
26	E/2813/06	do	No.106/CE/DC /MGG/05 dt.31.1.05	Do
27	E/2814/06	M/s.TISCO vs. CCE, Chandigarh	No.110/CE/DC /MGG/05 dt.31.1.05	Do
28	E/2815/06	do	No.107/CE/DC /MGG/05 dt.31.1.05	Do
29	E/2816/06	Shri Sushanta Banerjee vs.CCE, Chandigarh	No.106/CE/DC /MGG/05 dt.31.1.05	Do
30	E/2817/06	do	No.110/CE/DC /MGG/05 dt.31.1.05	Do
31	E/2818/06	M/s.TISCO vs. CCE, Chandigarh	No.106/CE/DC /MGG/05 dt.31.1.05	Do
32	E/2819/06	M/s.Adhunik Ferro Alloys Ltd. vs. CCE, Chandigarh	No.107/CE/DC /MGG/05 dt.31.1.05	Do
33	E/2820/06	Shri Nirmal Kumar Agrawal vs. CCE, Chandigarh	No.106/CE/DC /MGG/05 dt.31.1.05	Do
34	E/2821/06	do	No.107/CE/DC /MGG/05 dt.31.1.05	Do
35	E/2822/06	M/s.Neepaj Steel (India) vs. CCE, Chandigarh	No.106/CE/DC /MGG/05 dt.31.1.05	Do
36	E/2823/06	Do	No.107/CE/DC /MGG/05 dt.31.1.05	Do
37	E/2824/06	Do	No.110/CE/DC /MGG/05 dt.31.1.05	Do
38	E/2835/06	Shri Hardev Singh, Director vs. CCE, Chandigarh	No.105/CE/DC /MGG/05 dt.31.1.05	Do
39	E/2919/06	Shri Rajesh Kumar Gupta vs. CCE, Chandigarh	No.113/CE/DC /MGG/05 dt.31.1.05	Do

40	E/2920/06	M/s.Rushil Alloys vs. CCE, Chandigarh	No.102/CE/DC /MGG/05 dt.31.1.05	do
41	E/2921/06	Shri Rajesh Kumar Gupta vs. CCE, Chandigarh	do	Do
42	E/2922/06	M/s.Rushil Alloys vs. CCE, Chandigarh	No.100/CE/DC /MGG/05 dt.31.1.05	Do
43	E/2942/06	M/s.B.D.Gupta & Sons vs. CCE, Chandigarh	No.113/CE/DC /MGG/05 dt.31.1.05	Do
44	E/3009/06	Shri Sushanta Banerjee vs. CCE, Chandigarh	No.107/CE/DC /MGG/05 dt.31.1.05	Do

Present for the Appellant : Shri Kamaljeet Singh, Advocate for appellant No.1 to 7 and 12 to 37 and 44.

Present for the Respondent: Shri S. K. Bhaskar, DR and Shri A. Khanna respondent in Sl.No.1 to 44.

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

FINAL **ORDER No.** 1047-1090/2010 SM (Br)

PER: M.Veeraiyan

1.1 A group of 44 appeals have been listed together on the ground that the issues involved in these appeals are identical. After hearing both sides at length on 22.7.2010 and today, I find several flaws in the manner of disposal of appeals by the Commissioner (Appeals), in the manner of listing the appeals by the Registry and in the manner of assistance by the Advocate and the DRs. Due to such mishandling at different stages, appeals on truly connected matters got disconnected while appeals on disconnected matters got clubbed together, thus making the present group of appeals a kind of 'remnant appeals" or "left ever appeals".

1.2 The background of these appeals deserves to be dealt with at some length.

2.1 **3 appeals**, namely, E/2590-2592 of 2006 are arising out of a common order-in-appeal No.251-277.2006 dated 31.3.3006 passed by the Commissioner (Appeals) by which he decided 27 appeals.

2.2 As per the report submitted by the Registry out of 27 parties in the above orders in appeal by the Commissioner (Appeals), 8 parties have filed appeals before the Tribunal. Out of these, 5 appeals have already been disposed of by the Tribunal. Vide final order No.812/ 2006, appeal No.E/2184 of 2005 filed by M/s Sagar Forged and Allied Industries stands dismissed for failure to comply with the provisions of Section 35F. By final order No.1000-1018 of 2009 dated 4.5.2009, the appeals No.2185, 2186 and 2187 stand allowed and the matter stand remanded to the original authority for fresh consideration. By final order NO.1027-1048 of 2009 dated 5.5.2009, the appeal No.E/2870 of 2006 stands allowed and the matter remanded to the original authority.

2.3 The appeal No.E/2590/06 is filed by one Shri Nirmal Kumar Agarwal, Director of M/s Adhunik Steel Ltd., who is the consignment agent of TISCO. On perusal of the common order-in-original No.87/CE/34/ dated 26.12.2005 passed by the Deputy Commissioner, Mandi Gobindgarh, it is noticed that there is a demand of Rs.17,534/- against M/s. K.L. Alloys Pvt. Ltd. after denying the credit which was taken on the basis of invoices issued by M/s. Adhunik Steel Ltd., and that there are penalties imposed on 7 parties /persons including the consignment agent and its Director, the recipient namely M/s. K. L. Alloys Pvt. Ltd. 7 appeals have been filed against the said order in original before the Commissioner (Appeals). The Commissioner (Appeals) has decided these seven appeals together with 20 other appeals arising out of other orders of original authority and passed the impugned orders. M/s. K. L. Alloys Pvt. Ltd. against whom the demand was upheld by the Commissioner (Appeals) came before the Tribunal and the Tribunal has already remanded the matter to the original authority for fresh consideration.

2.4. As already mentioned, Excise Appeals No. 2591 and 2592 of 2006 before the Tribunal are arising out of Order-in-appeal No. 251 to 277/CMB/06 dated 30.3.06 by which Commissioner (Appeals) decided 27 appeals. The order of the original authority connected to these two appeals is Order-in-original No. 104/CE/BC dated 31.3.2006 by which credit of Rs. 43991/- taken by M/s Giani Casting Pvt. Limited (appellant in Excise Appeal No. 2591 of 2006) stands denied and duty demanded on the ground that the invoices issued by consignment of TISCO which went through a registered dealer did not satisfy the conditions for taking credit and penalties imposed on Sh. Mohinder Gupta, Director (the appellant in 2592/06) and six others. On perusal of the order of the Commissioner (Appeals), only two appeals of M/s Giani Casting Pvt. Limited and its Director Sh. Mohinder Gupta have been decided by the impugned order. The Assistant Commissioner, Mandi Gobindgarh who is present today to assist the Court is not in a position to confirm whether the other parties to the order in original have filed any appeal before the Commissioner (Appeals) and if so, the outcome of the said appeals.

2.5 **4 appeals**, namely, E/2301-2304/05 are arising out of the common order in appeal passed by the Commissioner (Appeals) vide Order No.333-372/CE/CHD/06 dated 28.4.2006 by which he decided totally 40 appeals of the parties. The report received from the Registry indicates that 28 appeals have been field against the said order of the Commissioner (Appeals). Out of this, by the final order of the Tribunal No.467-469/08, 22 appeals stand disposed of by remanding the matter to the original authority.

2.6 **37 appeals**, namely E/2764-2767/06, E/2794-2804/06, E/2810-2825/06, E/2835/06, E/2919-2922/06, E/2942/06 and E/3009/06, are arising out of the common order in appeal No.453-492/CE/CHD/2006 dated 30.5.2006 passed by the Commissioner (Appeals) who has decided totally forty appeals. The report of the registry indicates that 38 appeals have been field and appeal No.E/2679/06 in respect of Manu Bansal vs. CCE, Chandigarh stands disposed of vide final order No.467-469/08 dated 24.1.08. The learned Advocate submits that 40 appeals are arising out of 11 different orders in original. The Commissioner (Appeals) has not linked other appeals, (filed before him) if any, arising out of said 11 orders in original. The Assistant Commissioner, Mandi Gobindgarh who is present and learned SDR are not able to readily furnish the details of appeals, if any, filed by the other patties to the original orders before Commissioner (Appeals), and the status of the said appeals.

3. Learned Advocate Shri K.J. Singh submits that the original authority has imposed penalties on various parties/persons like TISCO, the employee of TISCO, Consignment Agents of TISCO and Directors/ employee of consignment agents of TISCO, registered dealers and connected persons and

the manufacturer who has taken credit and their employees and Directors. He has not given findings on the specific role of each party/ person in the alleged violations justifying imposition of penalties. Commissioner (Appeals) has also not specifically appreciated the role of each persons on whom penalty has been imposed. Learned Advocate, submits that many of the connected appeals stand disposed of by the Tribunal by way of remand to the original authority and, therefore, he seeks remand of these matters also to the original authority. Learned Advocate relies on the decision of the Tribunal in the case of **Aarti Steels Limited** reported in 2008 (89) ELT 235 by which several appeals were disposed of by setting aside the orders of authorities below and remanding the matter to the original authority for considering the matter afresh in the light of the decision of the Tribunal in the case of **Ranjeev Alloys Ltd**.

4. Learned SDR, relying on the decision of the Tribunal in the case of **Ranjeev Alloys Ltd.**, vs. **CCE, Chandigarh** reported in 2009 (236) ELT 124 which stands upheld by the Hon'ble High Court of Punjab and Haryana, submits that there has been wholesale conspiracy in taking credit without actually receiving the goods. The manufacturing units have not proved that the goods have been received after the Department has brought out several discrepancies in their claim for transportation of goods.

5. I have carefully considered the submissions from both sides and perused the records. The dispute relates to consignments said to have been transferred by consignment agents of TISCO to certain manufacturers who have availed modvat credit / CENVAT credit. There are several consignment-agents and several the manufacturers involved. In certain cases .the goods have been sent directly from consignment agents to the

concerned manufacturers. In certain other cases, the consignments were shown to have been routed through registered dealers. The investigation by the Officers indicated that in some cases registration numbers of vehicles mentioned in the documents for transportation were not even those of vehicles registered with the transport authorities; that in some cases the vehicle nos. given related to four wheelers, tractors and two wheelers. The show cause notices were issued specific to the recipient manufacturer who availed the credit together with connected parties like TISCO, Consignment Agent, Registered dealer (wherever applicable) and the individual persons connected to the above parties. The original authority apart from confirming demand of duty from the recipient manufacturer after denying the credit, imposed penalties of varying amounts on all these persons.

6. A perusal of various orders of original authority connected to these appeals indicate that there has been no specific discussion on the failure / violation of each party/ person on whom penalty has been imposed, with reference to evidence relied upon, and the defence submissions of the concerned party/ person.

Manner of Disposal by the Commissioner (Appeals):

7.1. The manner of disposal of the appeals by the Commissioner (Appeals) is highly defective and shows no application of mind. Commissioner (Appeals) has not taken all appeals filed before him arising out of any particular order-in-original together. Clubbing appeals, some arising out of one order-in-original and some other appeals arising out of the other orders-in-original is not at all justified. While it may be true that in a broad sense the issue involved may be the same, it is not as if the issue was required to be decided by him on the undisputed facts. The order of the original authority is with respect to a show cause notice which is manufacturer specific with the connected parties. Nature of violation /allegation and the evidence relied upon are not identical in all the show cause notices. The nature of defence given by each of the noticees before the original authority cannot be said to be identical in nature. The Commissioner (Appeals), therefore, should have considered only appeals arising out of any particular order-in-original together. Further, there are cases where the manufacturer have admitted only receipt of invoices without receipt of goods and thus have admitted duty liability and paid the duty and some of them have not even filed appeals. These facts which are relevant to other connected noticees have not been individually correlated by the Commissioner (Appeals). The Commissioner (Appeals) has resorted to mass disposal of the appeals.

7.2 This type of disposal of the appeals is akin to prescribing same medicine by a Doctor to all patients who may be coming to him with complaints of fever without looking into reasons or root cause for the fever and without conducting necessary investigation of the patients individually and without taking the overall condition of the individual patient.

7.3 The manner of disposal of the appeals show total non-application of mind. On this ground alone the orders of Commissioner (Appeals) require to be set aside and remanded for proper appreciation of facts and for applying the law on the specific findings of facts involved in each case and each group of cases arising out of same show cause notice.

Manner of listing and clubbing of the cases by the Registry:

8.1. When Commissioner (Appeals) has messed up as above, the registry has contributed its bit to the confusion. For example, when 28 appeals have been filed against the common order-in-appeal by the Commissioner (Appeals) No. 333-372/CE/CHD/2006, registry has listed one of the appeals in 2006, one of the appeals in 2008 and 22 appeals in 2009. If some care was taken, all these appeals could have been listed together, for what is worth. It is hoped that, in future, the registry will take necessary precaution in listing all appeals arising out of common order-in-appeal of the Commissioner (Appeals) or the order of the Commissioner as the case may be. This is easily possible in view of the software programme in place.

8.2.1 Today's listing of the appeals in the cause list also calls for comments. 44 appeals are listed as follows:

1	E/2301-2304/00 E/2590-2592/06 E/2764-2767, 2794-2804, 2810-2824, 2835/06, E/2010-2922, 2942, 3009/06	TISCO & Others	CCE, Chandigarh	K.J. Singh	Connected matters

8.2.2 Each of the appeals, even if forming part of same group of appeals, should have been specifically listed indicating the appeal number, the name of the appellant and the name of the respondent and the name of the authorized representative. If the purpose was to show that they are connected matters, it is advisable to list them as 1.1, 1.2, 1.3 etc. or as 1(a), 1(b) 1(c) etc. It is hoped that this would be followed in future.

8.2.3 The cause list also shows as if in all the appeals appellants are represented by Shri Kamaljeet Singh, Advocate whereas there are parties who are not represented by the said Advocate.

8.2.4 Perhaps due to this wrong practice of listing, the earlier final orders issued disposing many of the appeals arising out of the above three impugned orders of the Commissioner (Appeals) do not have ready correlation of the name of the party with the connected appeal number.

Lack of assistance at the time of hearing appeals on earlier occasions:

9. It is apparent that no proper assistance has been given to the Tribunal by both sides to dispose of appeals arising out of same order of the Commissioner (Appeals). The learned Advocates appearing for the parties and the DRs representing the department should have shown little more diligence and efforts to get really connected appeals to be listed together for disposal.

Action wanting from the Commissioner:

10. After spending considerable time on 22.07.2010, Miscellaneous Order No. 191/2010-SM dated 22.7.2010 was issued directing the Commissioner to furnish details of appeals pending before the Tribunal with reference to each order-in-original to enable listing of truely connected appeals. It was also directed to indicate details of connected appeals already disposed of by the Tribunal, and the said information was sought for not only in respect of the 44 appeals but also in respect of other appeals pending before the Tribunal relating to the Commissionerate. It is noticed that only the report relating to Mandi Gobindgarh division has been received and the Assistant Commissioner Shri Madan Mohan Verma appeared to assist the Court as

directed. It is hoped that the Commissioner will take necessary action and submit the report in respect of other pending matters to the Registry and that the concerned DR will pursue for getting the report from the concerned Commissionerate.

11. In respect of 44 appeals, the following emerge:

a) Each of the orders-in-original decided show cause notice issued to recipient-manufacturer and the connected parties. However, there is no specific finding on the role of each party/ person with reference to evidence relied in the show cause notice, their reply in defence and reasons justifying penalty.

b) Commissioner (Appeals) messed up the proceedings before him by restoring to "mass burial" type of disposal of unrelated appeals, without looking into relevant facts of truly connected appeals arising out of same orders-in-original.

c) Registry of the Tribunal failed to list even cases arising out of same order of the Commissioner (Appeals) together in a group.

d) The three impugned orders of the Commissioner (Appeals) stand set-aside, at least partly, as many appeals arising out of them stand allowed by way of remand to the original authorities, making these appeals a kind of "remnant appeals" or "left over appeals".

12. In view of foregoing, the orders of the Commissioner (Appeals) and that of the original authority, in so far as they relate to appeals before me are concerned, are set aside and the matter remanded to the original authority for fresh consideration in the light of observations made above and in the light of decision of the Tribunal in the case of Ranjiv Alloys Limited (supra). He shall grant reasonable opportunity of hearing to the parties before deciding the matter afresh.

[M. Veeraiyan]
Member (Technical)

Pant