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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/700 /2009 – SM[BR] Date 04/11/2010

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

To :
M/S BANSAL PRECISION SCREWS PVT. LTD.
PLOT NO. 194, IDC, HISSAR ROAD, ROHTAK-124001.

M/S BANSAL PRECISION SCREWS PVT. LTD. Appellant
Vs
C.C.E. ROHTAK Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 1198 / 2010-SM[BR] dated 22.10.2010 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. ROHTAK
SCO NO,6 SECTOR 1, ROHTAK.
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.700 of 2009-SM

(Arising out of Order-in-Appeal No.181/ANS/RTK/2008 dated 11.12.2008 passed by the CCE (A), Delhi-III, Gurgaon)

Date of Hearing: 22.10.2010
Date of Decision: 22.10.2010

For approval and signature:
Hon'ble Mr.Ashok Jindal, Member (Judicial)

1	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3	Whether Their Lordships wish to see the fair copy of the Order?	
4	Whether Order is to be circulated to the Departmental authorities?	

M/s.Bansal Precision Screws Pvt.Ltd. Appellant

Vs.

CCE, Rohtak Respondent

Present for the Appellant: None
Present for the Respondent: Shri S.k.Bhaskar, SDR

Coram: Hon'ble Mr.Ashok Jindal, Member (Judicial)

Final **ORDER NO.** 1198/2010 SM (BR)

PER: ASHOK JINDAL

The appellant has filed this appeal against the order of confirmation of duty, interest and equal amount of penalty.

2. The allegation against the appellant is that the appellant has availed cenvat credit on the strength of fictitious invoices issued by M/s.AVI Steel Traders, Faridabad without actually receiving the goods. The department has also made enquiry that the transporter who was owner of the vehicle which was mentioned in the invoice and found that the vehicle was a TATA Saloon Bus and statement of the transporter was also recorded

wherein he stated that they had not transported the goods. Accordingly both the lower authorities have confirmed the demand alongwith interest and equal amount of penalty. Aggrieved by the said order, the appellant is in appeal.

3. Today the matte was fixed for final hearing instead of appearing, the appellant has sent a letter dated 20.10.2010 to decide the matter on merits.

4. Learned DR reiterated the impugned order.

5. Heard and considered.

6. I have gone through the impugned order and submissions of the appellant. It is admitted fact that the appellant has availed cenvat credit without actual receipt of the goods and vehicle number mentioned in the invoice was fake. In these circumstances, the department has rightly demanded duty from the appellant alongwith interest and equal amount of penalty. I have seen the impugned order, the appellant was given an option to pay 25% of duty confirmed as penalty under provisos 1 and 2 of Section 11AC. Accordingly I give option to pay 25% of the duty as penalty within thirty days from the receipt of this order. Further I find that the appellant has paid duty alognwith interest and equal amount of penalty imposed on them, so the penalty is restricted to 25% of the duty confirmed.

7. The appeal is allowed partly with consequential relief.

(ASHOK JINDAL)
MEMBER (JUDICIAL)

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