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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/1286/2010 – SM[BR]& E / STAY / 1322 / 2010-SM[BR] Date 16/11/2010

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

To :
SH. ASHOK KUMAR, DIRECTOR
M/S CHANDRA ROLLING MILLS PVT. LTD. ,
PLOT NO. J-1, VISHNU GALI, NEW MANDOLI,
INDUSTRIAL AREA, SABO
SH. ASHOK KUMAR, DIRECTOR

Appellant
Vs
Respondent

C.C.E. DELHI II

I am directed to transmit herewith a certified copy of **Final order No.**1236/2010-SM[BR]&S/534/2010dated 1.11.2010 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
C.C.E. DELHI II
C.R. BUILDING, I.P. ESTATE, NEW DELHI 110002
2. Adv. / Consult SHRI V.R.SETHI ADV.
401,SATYAM CINEMA BUILDING,
4TH FLOOR,RANJEET NAGAR, NEW DELHI-8.

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.2, R. K. Puram, New Delhi
COURT-IV

Date of hearing/decision: 1.**11.2010**

Excise stay No. 1322 of 2010 & Excise Appeal No. 1286 of 2010-SM

[Arising out of order-in-Appeal No. 72 & 73/CE/D-II/2010 dated 24.2.2010 passed by the Commissioner (Appeals), Central Excise, Delhi]

For approval and signature:

Hon'ble Mrs. Archana Wadhwa, 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.	No
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
3	Whether Their Lordships wish to see the fair copy of the Order?	No
4	Whether Order is to be circulated to the Departmental authorities?	Yes

Shri Ashok Kumar, Director
M/s Chandra Rolling Mills (P) Ltd. — Appellant

Vs.

CCE, New Delhi — Respondent

Appearance :

Appeared for Appellant : Shri V.R. Sethi, Advocate
Appeared for Respondent: Shri Anil Khanna, SDR

CORAM: HON'BLE MRS. ARCHANA WADHWA, MEMBER (JUDICIAL)

Final

Order No. 1236/2010 SM (BR) & S-534/2011 SM (BR) dated............

Per Archana Wadhwa:

The prayer in the application is to dispense with the condition of pre-deposit of penalty of Rs. 2.00 lakhs imposed upon the applicant-appellant, who is Director of one M/s Chandra Rolling Mills (P) Ltd., in terms of provisions of Rule 26 of Central Excise Rules, 2002.

2. After hearing both the sides represented by Shri V.R. Sethi, ld. Advocate and Shri Anil Khanna, ld. DR, I find that the original adjudicating authority confirmed the demand of around Rs. 8 lakhs against M/s Chandra Rolling Mills (P) Ltd. along with imposition of penalty of identical amount under Section 11AC on the allegations and findings of clandestine removal. He also imposed penalty of Rs. 2.00 lakhs on the Director.

3. On appeal against the above order, Commissioner (Appeals) reduced the duty amount ~~of~~ to Rs.3,48,417/- as also reduced the penalty to the above extent, in respect of M/s Chandra Rolling Mills (P) Ltd. However, he did not reduce the penalty on the Director. Hence the present appeal.

4. Ld. Advocate appearing for the appellant submits that M/s Chandra Rolling Mills (P) Ltd. have deposited the entire amount of duty along with 25% of penalty amount. He also clarifies that M/s Chandra Rolling Mills (P) Ltd. has not appealed against the impugned order. In view of the fact that duty liability on M/s Chandra Rolling Mills (P) Ltd. was brought down considerably by the Commissioner (Appeals), he should have reduced the penalty on the Director also. Accordingly, ld. Advocate submits that the penalty on the Director be reduced proportionately.

5. After hearing the ld. DR and going through the impugned order and in view of the fact that manufacturing unit has deposited the entire amount of duty along with 25% of penalty, in which case the penalty on the manufacturing unit reduced to Rs.87,107/-, I reduce the penalty on the Director to Rs.50,000/-. The appellant undertake to deposit the amount within the period of four weeks from today.

6. They are accordingly directed to deposit the amount. The stay petition and appeal also get disposed of in the above terms.

(Dictated & pronounced in open Court)

(ARCHANA WADHWA)
MEMBER (JUDICIAL)

RM