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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/970 /2009 – SM[BR] Date 18/11/2010

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

To :
C.C.E. CHANDIGARH
C.R. BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH 160017
C.C.E. CHANDIGARH Appellant
Vs
SH. GURMEET SINGH, DIRECTOR OF Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1275/2010-SM[BR] dated 27.10.2010 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
SH. GURMEET SINGH, DIRECTOR OF
M/S SHIV SARASWATI STEEL STRIPS, AMLOH ROAD, MANDI GOBINDGARH.
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
NEW DELHI
Court No.IV

E/Appeal No.970/09-SM

(Arising out of order in appeal No.23-24/CE/Chd/09 dated 29.1.2009 passed by the Commissioner of Central Excise (Appeals), Chandigarh)

Date of Hearing:27.10.2010

For approval and signature:

Hon'ble Mrs Archana Wadhwa, Member (Judicial)

1. Whether Press Reporters may be allowed to see 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

CCE, Chandigarh — Appellants

Vs

Shri Gurmeet Singh, Director — Respondent

Appeared for the Appellant: Shri Anil Khanna, SDR
Appeared for the Respondent: None

Coram: **Hon'ble Mrs Archana Wadhwa ,Member (Judicial)**

Final ORDER - 1275/2010 SM (BR)

Per Archana Wadhwa:

Being aggrieved with that part of the impugned order of Commissioner (Appeals) vide which he has set aside the penalty of Rs.

10,000/- imposed on the respondent, Director of M/s Shiv Steel Strips while confirmed the demand of duty against the said manufacturing unit, the Revenue has filed the present appeal.

2. I have heard Shri Anil Kumar, SDR appearing for the Revenue. The respondent is not represented.

3. The learned original adjudicating authority while confirming the clandestine removal against the manufacturing unit and consequent imposition of penalty, also imposed penalty of Rs.10,000/- on the present respondent i.e. Director of the unit under Rule 26 of the Central Excise Rules, 2002. On going through the order of the Assistant Commissioner, I find that there is no discussion or any evidence as regards the involvement of the Director. The penalty stands imposed upon him for the contravention committed by the manufacturing unit. The Commissioner (Appeals) while upholding the order of the Assistant Commissioner in respect of the manufacturing unit, has set aside the penalty on the Director by following the Tribunal's decision in the case of Jayakrishna Aluminium Ltd Vs CCE Chennai reported in 2005 (1187) ELT 234 (Trib) by observing that once the penalty stands imposed on the company, there was no justification for imposition of very penalty on the Director.

4. As already observed, the penalty on the Director stand imposed by the original adjudicating authority in a mechanical manner without ~~attracting~~ attributing any role to him in clandestine clearance of the goods. In such a scenario, setting aside of penalty on the Director by

Commissioner (Appeals) would be justified. Accordingly, the appeal filed by the Revenue is rejected.

(ARCHANA WADHWA)
Judicial Member

MPS*