

GRAM : CEGCANAL

REGISTERED/A.D

THE CUSTOMS, EXCISE & GOLD (CONTROL) APPELLATE TRIBUNAL,

West Block No. 2, R.K. Puram, New Delhi - 110066.

BENCH - NB(SM)

Appeal No. E/2902/99/NB(SM)

Dated : 15/2/2001

CEGAT
NEW DELHI

To,

M/s Honda Siel Power Products Ltd
Village - 9 PO Bhognara via Kichra

DISH - Udham Singh Nagar

(Uttaranchal) - 283148

In the matter of :

M/s Honda Siel Power Products Ltd Appellant

vs.

CCE Meerut Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/262/01/NB(SM)
Dated : 6/2/2001 : passed by the Tribunal under Section 35-C(1) of Central Excise
& Salt Act, 1944/Section 129 (B) of the Customs, Act, 1962.

Copy to :

Asstt. Registrar
NB(SM)

1. CCE Meerut
2. CCE / CC / (Appeal)
3. Chief Commissioner of Central Excise / Customs.
4. Adv. / Consult.
5. S.D.R - NB(SM)
6. JCDR
7. Bar Association, CEGAT, New Delhi
8. Library, CEGAT, New Delhi
9. Director (Review), C.B.E.C. North Block, New Delhi
10. Guard File.
11. M/s Deeparchic Publications, M-93, Marg-46, Saket, New Delhi.
12. M/s Centax Publications (P) Ltd., 1512-E, Bishm Pitamah Marg, opp. Sachdeva P.T. College of Defence Colony, New Delhi-110003
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Asstt. Registrar
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**In the Custom, Excise & Gold (Control) Appellate Tribunal
New Delhi**

APPEAL NO. E/2902/99/NB/SMOF 19 (.....)

ARISING OUT OF ORDER IN ORIGINAL/APPEAL NO.

748-/CE/MRT/99 dt. 2.9.99..... DATED.....

PASSED BY...Commissioner.(Appeals).....

Customs & Central Excise Ghaziabad..

Date of decision.....6.2.2001.....

.....M/s.Honda.Siel.Power.Products.Ltd.....APPELLANT (S)

Represented by Sh./Smt.....D.L.Ojha, Com.Rep.....

VERSUS

.....CCE Meerut.....RESPONDENT (S)

Represented by Sh./Smt.....M.D.Singh, SDR.....

CORAM :

.....SHRI K.K. BHATIA, MEMBER (T).....

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To be referred to the Reporter or not?

FINAL ORDER NO. A/262/01/NB CS/m)

Per.....SHRI K.K. BHATIA, MEMBER (T)

The facts in this appeal are that the appellants M/s Shri Ram Honda Power Equipments Ltd., Rudrapur manufacture Gen.Sets, I.C. Engines, Pump Sets and parts thereof. They were sending the components of these machines for further processing to their job workers under Rule 57F(3) of the Central Excise Rules, 1944.

They sent 180 Nos Cylinder Barrels for further processing to the job workers under this Rule vide their challan No.679 dt 13.9.96. while sending out these goods, they debited an amount of Rs. 38549.00 in their RG 23A part-II account as provided under this rule. These goods were received back from job worker on 18.11.96 which is six days beyond the period of 60 days as prescribed under the rule for the return of the goods. The proceedings were drawn against the appellants and the Assistant Commissioner Central Excise, Division Rampur in his order dt 24.10.97 held that the basic requirement of this rule is that if the goods are sent outside for jobwork and the same could not be returned back within 60 days, the party should approach proper officer for extension of time. He has observed that the party could not take the credit back on their own even if the material is received back without taking necessary permission for extension of time. In the instant case, the party did not approach the proper officer for taking any such permission and took the credit on their own after expiry of 60 days period. The Assistant Commissioner in his order therefore, confirmed the demand of Rs.38,549.00/- and also imposed a penalty of equal amount on the party.

2. On appeal the Commissioner(Appeals), Ghaziabad vide his order dt 2.9.99 upheld the findings of the lower authority rejecting the appeal of the party.

3. The present appeal is against above order of Commissioner(Appeals). I have heard Shri D.L.Ojha, Manager Excise & Customs of the appellants and Shri M.D.Singh, SDR for the respondents. The Id.Representative of the Company is contesting the findings recorded in the order in original and upheld in the order in appeal to the effect that the appellants did not apply for the extension of time beyond 60 days for the return of the goods. He states that at the relevant time there was strike in their factory therefore they had sent a letter dt 16.10.96 to the A.C. Central Excise, Rampur enclosing a list of about 87 challans for which they had sought extension of time for the return of the goods. The impugned challan No. 679 dt 13.9.96 is one of them in respect of which the extension is sought for the return of the goods upto 12.1.97. It is contended that this letter was sent by registered post to the A.C. Central Excise with a copy endorsed to the Superintendent of Central Excise. It is contended that it could be seen from this letter that the appellants had applied for extension of time within the 60 days period for the return of the goods as stipulated under the rule. It is contended that these pleas were made before the original authority as well as the lower appellate authority but no findings are given by the Assistant Commissioner on this and the Commissioner(Appeals) in his order has dismissed this submission with the observation

that no such letter is found on record. It is contended by the Ld. Representative of the appellants that these submissions are a matter of fact which can be verified by the Central Excise authorities on remand of the case. The Ld. SDR for the Deptt. reiterated the findings arrived at by the original authority as well as appellate authority in their respective orders.

4. I have carefully considered submissions made before me. The limited point for consideration in this appeal is whether the appellants had applied for extension of the time beyond a period of 60 days for the return of the goods sent out by them under Rule 57F(3) by challan No. 679 dt 13.9.96. The return of the goods as such is not in dispute. The demand is confirmed on them only on the ground that they did not apply for extension of time beyond 60 days as stipulated under this rule. The appellants have produced before me a copy of their letter dt 16.10.96 with which they have enclosed a list of challans under which they had sent out the goods to job workers which were returned by them after subjecting them to job work. This letter is addressed to the Assistant Commissioner Central Excise, Rampur with a copy endorsed to Superintendent Central Excise, Rampur. In this letter the appellants have

sought extension of the period for return of the goods beyond 60 days on account of their factory workers being on strike. In view of the submissions as to the facts made before me, I am of the view that these should be verified by the original authority. Accordingly the order passed by the lower authority is set aside and the matter is remanded to the original authority for verification of the facts as narrated above and to take a final view in the matter accordingly. The appellants shall be afforded a reasonable opportunity of hearing before taking the final view in the de-novo proceedings.

3. The appeal is thus allowed by remand in the above terms.

(K.K. BHATIA)

MEMBER (T)

PW

12.2.2001