

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/2004/2000-NB(SM)

Dated : 16/3/2001

CEGAT  
NEW DELHI

To,

M/s N. K. H. Alloys.

NPO Jamali ali

Chanoligash Road.

Lalhiama (P.B)

In the matter of :

M/s N. K. H. Alloys.

Appellant

vs.

CCE. Chanoligash.

Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/364/2001-NB S'  
Dated : .....25/1/2001.....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

1. CCE. Chanoligash.

NB SM'

2. CCE / CC / (Appeal) Chanoligash.

3. Chief Commissioner of Central Excise / Customs. New Delhi.

4. Adv. / Consult.

None.

5. S.D.R

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, Bhishm Pitamah Marg, opp. Sachdeva P.T. College of  
Defence Colony, New Delhi-110003

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16. M/s Law Intouch Res. P. Ltd.

Asstt. Registrar

**In the Custom, Excise & Gold (Control) Appellate Tribunal  
New Delhi**

E/2004/2000/NB (SM)

APPEAL NO.....OF 19 (.....)

ARISING OUT OF ORDER IN ORIGINAL/APPEAL NO.  
IV(16)C.Levy/IF/25/T/97/1002. 13-3-2000

.....DATED.....

PASSED BY.....COMMISSIONER CENTRAL EXCISE, CHANDIGARH

Date of decision..... 25-1-2001

.....N.K.H. ALLOYS.....APPELLANT (S)

Represented by Sh./Smt..... NONE

**VERSUS**

CCE CHANDIGARH

.....RESPONDENT (S)

Represented by Sh./Smt..... A.K.JAIN, JDR

**CORAM :**

.....SH. V.K.AGRAWAL.....MEMBER.(TECHNICAL)

To be referred to the Reporter or not?

*FINAL* ORDER NO. *A/364/01/NB (S/M)*

V.K.AGRAWAL:

Per.....

In this appeal filed by M/s  
N.K.H. Alloys, the issue involved <sup>is</sup> whether  
abatement of ~~is~~ <sup>duty</sup> ~~whether~~ ~~of~~ duty under  
Section 3 A of the Central Excise Act is

available to them during the period their factory remained closed.

2. When the matter was called, no one was present on behalf of the Appellants inspite of notice I, therefore, heard Shri A. K. Jain, Ld. JDR, and perused the records. The Appellants have submitted in their Memorandum of Appeal that they had claimed abatement in duty from 16-1-98 to 31-1-98 and for the period from 20th Feb 98 to 27th February 98; that they had sent intimation for closure of the factory for 15 days on 16-1-98 which was duly acknowledged by the Department; that on 17-1-98 they informed the position of stock of the steel ingots as at 18hrs on 16-1-98 through courier; that as the procedure was new, they forgot to mention the meter reading which was intimated by them on 19-1-98; that the Meter reading on 16-1-98 was 799365 and it was varified by the Central Excise Officer on 17-1-98; that there has been no allegation that the furnace worked on 17-1-98; that the requirment of Rule

96Zo(2)(b) has been fully complied with; that the intimation of restarting of furnace on 31-9-98 was sent on 31-9-98 which was received by the Department on 3-2-98 and accordingly the allegation of not sending recommencement intimation is not correct. They have, further, mentioned in the Memorandum of Appeal that their claim for abatement of duty for the period from 20-2-98 to 27-2-98 has been dis-allowed on the ground that the intimation of restarting of the factory on 27-2-98 was received on 21-3-98; that the allegation in the show-cause-notice was that no intimation was sent for re-starting the furnace on 27-2-98; that the intimation was sent on 27-2-98 and it was acknowledged by the Department on 27-2-98 itself which is evident from the rubber stamp of the office. Shri A.K.Jain, Id. JDR, reiterated the findings as contained in the impugned Order.

3. I have considered the submissions of both the sides. Rule 96ZO (2) (b) provides that the abatement will be allowed if the manufacturer has not

produced the ingots of non-alloy steel during any continuous period of not less than seven days subject to the condition that the information about the closure is given to the Assistant Commissioner/Dy Commissioner with a copy to Supdt, either prior to the date of closure or on the date of closure; that he intimate the reading of electricity meter immediately after the production in his factory is stopped alongwith closing balance of the stock of ingots of non alloy steel; similarly when he starts production again he has to inform about the same alongwith closing balance of stock and electricity meter reading to the Assistant Commissioner/Dy. Commissioner with the copy to Supdt of Central Excise. It is not in dispute that the electricity meter reading was not intimated by the Appellants on 16-1-98 when the production was stopped. The subsequent intimation of the electricity meter reading cannot be treated as compliance with the

requirement of Rule 96Z0(2)(b). Accordingly the Commssioner was justified in dis-allowing the abatement for the period 16-1-98 to 31-1-98. However, in respect of claim of abatement for the period 28-2-98 to 27-3-98, I find the Appellant had ~~was~~ sent intimation on 27-2-98 regarding re-start of furnace in which meter reading and closing balance was duly mentioned which was received by the Assistant Commissioner Central Excise, Ludhiana on 27th~~g~~ Feb itself. This is evident from the stamp affixed on the letter . Accordingly the finding in the impugned Order that the intimation regarding re-commencement was received on 21-3-98 is not correct. The Appellants are, therefore, eligible <sup>for</sup> the abatement of duty for the period from 20th Feb to 27 Feb, 98. The appeal is thus allowed partly.

(V.K.AGRAWAL)

MEMBER (TECHNICAL

Sunita

9-3-2001