

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/1081/2005 - EX[DB]

Date 03/02/2012

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

To :
C.C.E. GURGAON

UDYOG MINAR, UDYOG VIHAR, VANIJYA NIKUNJ,
PHASE V, GURGAON - 122016 (HARYANA)
C.C.E. GURGAON

Appellant

Vs
Respondent

M/S USHA AMORPHOUS METALS LTD

2012 EX[DB] dated 30-1-12

I am directed to transmit herewith a certified copy of Final order No.A/81/
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

b
Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

M/S USHA AMORPHOUS METALS LTD
PLOT NO. 486-487, UDYOG VIHAR,
PHASE-III, GURGAON

2. Adv. / Consult

MS. SEEMA JAIN, ADV.,
84, DARYA GANJ, N. DELHI

3. C.D.R

4. Bar association, CESTAT, New Delhi

5. Director Publications, Customs, Excise. I.P. Estate, New Delhi

6. M/s Centax Publications Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi-3

7. Company Law Institute of India Pvt Ltd., No.2 (Old No. 36), Vaithyaram Street, T. Nagar, Chennai -17

8. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005

9. Easy Service Tax Online Dot Com Pvt.Ltd.407A, Iscon Mall, Above Star India Bazar, Satellite Road,
Ahmedabad-15

10. LAWCRUX Advisors Pvt Ltd, LAW House, 1-8, Sector - 10, Faridabad 121003 (Haryana)

11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor, Vasant Arcade, Nelson Mandela Road,
Vasant Kunj, New Delhi - 110070

12. Office Copy

13. Guard file

b
Assistant Registrar
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing: 24.01.2011

Date of decision: 24.01.2011

In Appeal No. 1081 of 2005 - *Excise*

[Arising out of Order-in-Appeal No. 51/AKG/GGN/2005 dated 27.01.2005 passed by the Commissioner of Central Excise (Appeals), Delhi-III, Gurgaon]

CCE, Delhi-III

Appellant

Vs.

M/s. Usha Amorphous Metals Ltd.

Respondent

For approval and signature:

Hon'ble Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Sahab Singh, Member (Technical)

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?	Seen
4. Whether Order is to be circulated to the Departmental authorities?	Yes

Appearance: Rep. by Shri Nitin Pathak, DR for the appellant.
Rep. by Ms. Seema Jain, Advocate for the respondent.

CORAM: Hon'ble Smt. Archana Wadhwa, Member (Judicial)
 Hon'ble Shri Sahab Singh, Member (Judicial)

~~FINAL~~ Order No. ~~A/81/2012-EX~~^(BR).../Dated: 24.01.2012

Per Archana Wadhwa:

The short issue involved in the present appeal of the Revenue is as to whether the rate of excise duty required to be paid by 100% EOU at the time of clearance to the DTA is to be calculated @ 50% of the customs duty paid by them. The Commissioner (Appeals) by relying upon the precedent decision of the Tribunal in the case of M/s. Futura Polymers Vs. CCE, Chennai reported in 2003 (54) RLT 405 (Tribunal-Delhi) has held in favour of the respondent. Revenue's only ground in their memo of appeal is that the Tribunal's decision in the case of Futura Polymers (supra) stands not accepted by them and an appeal stands filed thereagainst before the Hon'ble Supreme Court.

2. It stands brought to our notice by the Advocate for the respondent that the appeal filed by the Revenue stands dismissed by the Hon'ble Supreme Court vide their order dated 12.10.2011 on the ground that the Larger Bench of the Tribunal in the case of M/s. Indo Worth India Ltd. dealing with the same issue stands accepted by the Board and no SLP has been filed there

against. Accordingly the appeal was dismissed on the ground of delay as well as on merits.

3. In view of the above, we find no merits in the case of Revenue. The appeal of the Revenue is accordingly rejected.

[Order dictated & pronounced in open court on 24.01.2012]

[~~Archana Wadhwa~~]
Member (Judicial)

[Sahab Singh]
Member (Technical)

Ckp.