

TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Mail : cestat08@gmail.com

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

Appeal No. : E/2418/2005-EX[DB]

Dated: 22/10/2012

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

To,

**PUNJAB BEARING INDUSTRIAL
LTD.**

G.T.Road Opp.Dhandari Kalan Railway
Station Ludhiana

**PUNJAB BEARING INDUSTRIAL
LTD.**

(Appellant)

VS

(Respondent)

C.C.E. CHANDIGARH

I am directed to transmit herewith a certified copy of Final Order No. A/1238/2012-EX[DB] dated 11/10/2012 passed by the Tribunal under section 35-C(1) of the Central Excise and Salt Act, 1944.


Assistant Registrar
EXCISE Appeal Branch

Copy To,

1. Respondent

C.C.E. CHANDIGARH

C.R. Building, Plot No. 19, Sector 17-C,
Chandigarh 160017

2. Advocate(s) / Consultant(s):

R. Santhanam

C-3/210,
JANAK PURI,
NEW DELHI,
DELHI
110058

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. Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Ameer Pet, Hyderabad – 500038

13. Office Copy

14. Gaurd File



Assistant Registrar
EXCISE Appeal Branch

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.

Court No.1

Excise Appeal No.2418 Of 2005

(Arising out of Order-in-Original No.18/LD/2005 dated 06.05.2005
passed by the CCE, Chandigarh)

Date of Hearing/Decision: 11.10.2012

For approval and signature:

Hon'ble Mr.Justice Ajit Bharihoke, President

Hon'ble Mr.Rakesh Kumar, Member (Technical)

1	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3	Whether Their Lordships wish to see the fair copy of the Order?	
4	Whether Order is to be circulated to the Departmental authorities?	

M/s.Punjab Bearing Industries Ltd.

Appellants

Vs.

CCE, Ludhiana

Respondent

Present: Shri R.Santhanam, Advocate for the Appellant

Present Shri M.S.Negi, DR for the respondent

Coram: Hon'ble Mr. Justice Ajit Bharihoke, President

Hon'ble Mr.Rakesh Kumar, Member (Technical)

FINAL ORDER No. A/1238/2012-ET(CB)

Per: Rakesh Kumar

The appellant are induction furnace unit ~~and~~ engaged in the manufacture of M.S.Ingots. The period of dispute in this case from September, 1997 to March, 2000. The appellant operated one furnace at a time. This appeal has been filed against the impugned order dated 6.5.2005 passed by the Commissioner by which in addition to other issues, he rejected the appeal regarding determination of annual production capacity on actual production basis.

2. Heard both sides.

3. Shri R.Santhanam, Advocate, learned Counsel for the appellant, pleaded that as is clear from the record of personal hearing, the appellant had not been heard on the question of re-determination of annual capacity production, that he was heard only on the question of abatement and that the Commissioner's findings on the question of re-determination of annual capacity of production are ex-parte without hearing the appellant in respect of the same. He, thus, pleaded that the impugned order has been passed in violation of principles of natural justice, and hence the same is not sustainable.

4. Shri M.S.Negi, DR for the respondent while defending the impugned order concluded that the appellant were heard only on the point of abatement and not on the point on the re-determination of annual capacity of production.

5. We have considered the submissions from both sides. On going through the records of personal hearing available in the records, we find that the appellant have not been heard on the question of redetermination of annual capacity of production. In view of this, the impugned order with reference to determination of annual capacity of production is set aside and this matter is remanded back to the Commissioner for de novo adjudication on this point after hearing the appellant. The appeal stands disposed as above.

(Justice Ajit Bharihoke)

President

(Rakesh Kumar)
Member (Technical)

mk