IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
WEST ZONAL BENCH AT MUMBAI

APPEAL NO: E/874/2010

[Arising out of Order-in-Appeal No: YDB/159/Bel/2010 dated 12th March 2010 passed by the Commissioner of Central Excise (Appeals), Mumbai Zone – II.]

For approval and signature:

Hon'ble Shri C J Mathew, Member (Technical)
Hon'ble Shri Ajay Sharma, Member (Judicial)

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	:	Yes
2.	Whether it should be released under Rule 27 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	:	Yes
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

Standard Alkali … ***Appellant***

versus

Commissioner of Central Excise
Belapur ***…Respondent***

Appearance:

None for appellant

Shri S Hasija, Superintendent (AR) for respondent

CORAM:

Hon'ble Shri C J Mathew, Member (Technical)
Hon'ble Shri Ajay Sharma, Member (Judicial)

Date of hearing:	**10/07/2018**
Date of decision:	**10/07/2018**

ORDER NO: A/87659 / 2018

Per: C J Mathew

Appeal has been filed against order-in-appeal no. YDB/159/Bel/2010 dated 12th March 2010 of Commissioner of Central Excise (Appeals), Mumbai Zone – II in which the appeal of Revenue against the order of the original authority confirming demand of ₹ 3,33,000 along with interest and imposition of penalty of like amount for being incomplete as three other show cause notices dated 7th October, 2005, 1st March 2006 and 20th October 2006 which was also adjudicated were not rendered closed with appropriation of duty accepted and paid by the assessee was allowed.

2. None appeared for appellant. We have heard Learned Authorised Representative.

3. The simple issue is that first appellate authority has ordered appropriation of confirmed amounts to remedy that which Revenue considered to be sole deficit in the order of the original authority. It is

admitted that the entire amount related to the relevant show cause notices had been paid by the assessee and the original authority, therefore, dropped the proceedings for imposition of penalties. All that the first appellate authority has done is to confirm that the amounts paid stood appropriated. The assessee had not contested the confirmation of duty liability which, therefore, cannot be challenged at this stage. The order of the first appellate authority is merely a clarification of the order of the original authority that is not detrimental to the appellant in the light of failure to contest the order of the original authority. There can be no grievance on the part of the appellant to warrant this appeal.

4. Accordingly, the appeal of M/s Standard Alkali is dismissed for lack of merit.

(Pronounced in Court)

(Ajay Sharma)
Member (Judicial)

(C J Mathew)
Member (Technical)

**/as161017100111*