
 सत्यमेव जयते	केंद्रीय कर आयुक्त (अपील)		
	O/O THE COMMISSIONER (APPEALS), CENTRAL TAX.		
वस्तु एवं सेवा कर भवन	GST Building, 7 th Floor, Near Polytechnic Ambavadi, Ahmedabad- 380015		
सातवीं मंजिल, पोलिटिकल कॉलेज के पास, आम्बावाडी, अहमदाबाद-380015			
079-26305065			टेलीफैक्स : 079-26305136

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क फाइल संख्या : File No : V2/90/GNR/2018-19

ख अपील आदेश संख्या : Order-In-Appeal No.: AHM-EXCUS-003-APP-108-18-19

दिनांक Date : 11-09-2018 जारी करने की तारीख Date of Issue: 26/10/2018

श्री उमाशंकर आयुक्त (अपील) द्वारा पारित

C. Jile

Passed by Shri Uma Shanker Commissioner (Appeals) Ahmedabad

ग अपर आयुक्त, केन्द्रीय उत्पाद शुल्क, अहमदाबाद-III आयुक्तालय द्वारा जारी मूल आदेश :
AHM-CEX-003-ADC-AJS-019-17-18 दिनांक : 19-02-2018 से सृजित

Arising out of Order-in-Original: AHM-CEX-003-ADC-AJS-019-17-18, Date: 19-02-2018
Issued by: Additional Commissioner, CGST, Div: RRA, HQ, Gandhinagar
Commissionerate, Ahmedabad.

घ अपीलकर्ता एवं प्रतिवादी का नाम एवं पता

Name & Address of the Appellant & Respondent

M/s. Sohni Ceramics

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील या पुनरीक्षण आवेदन प्रस्तुत कर सकता है।

Any person aggrieved by this Order-In-Appeal may file an appeal or revision application, as the one may be against such order, to the appropriate authority in the following way :

भारत सरकार का पुनरीक्षण आवेदन :

Revision application to Government of India :

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अंतर्गत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को उप-धारा के प्रथम परन्तुक के अंतर्गत पुनरीक्षण आवेदन अवर सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली : 110001 को की जानी चाहिए।

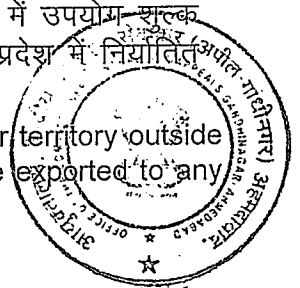
(i) A revision application lies to the Under Secretary, to the Govt. of India, Revision Application Unit Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi - 110 001 under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35 ibid :

(ii) यदि माल की हानि के मामले में जब ऐसी हानि कारखाने से किसी भण्डागार या अन्य कारखाने में या किसी भण्डागार से दूसरे भण्डागार में माल ले जाते हुए मार्ग में, या किसी भण्डागार या भण्डार में चाहे वह किसी कारखाने में या किसी भण्डागार में हो माल की प्रकिया के दौरान हुई हो।

(ii) In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse.

(ख) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामलों में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित हैं।

(b) In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.



- (ग) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।
- (c) In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

ध अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो ड्यूटी क्रेडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त, अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (नं.2) 1998 धारा 109 द्वारा नियुक्त किए गए हो।

(d) Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under and such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec.109 of the Finance (No.2) Act, 1998.

(1) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के भीतर मूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ. का मुख्यशीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चालान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

(2) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम हो तो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.

सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील:-
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35- षोबी/35-इ के अंतर्गत:-

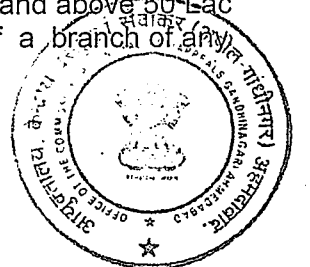
Under Section 35B/ 35E of CEA, 1944 an appeal lies to :-

उक्तलिखित परिच्छेद 2 (1) क में बताए अनुसार के अलावा की अपील, अपीलो के मामले में सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में ओ-20, न्यू मैन्टल हास्पिटल कम्पाउण्ड, मेघानी नगर, अहमदाबाद-380016.

To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at O-20, New Metal Hospital Compound, Meghani Nagar, Ahmedabad : 380 016. in case of appeals other than as mentioned in para-2(i) (a) above.

(2) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 की धारा 6 के अंतर्गत प्रपत्र इए-3 में निर्धारित किए अनुसार अपीलीय न्यायाधिकरणों की गई अपील के विरुद्ध अपील किए गए आदेश की चार प्रतियाँ सहित जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग ओर लगाया गया जुर्माना रूपए 5 लाख या उससे कम है वहां रूपए 1000/- फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग ओर लगाया गया जुर्माना रूपए 5 लाख या 50 लाख तक हो तो रूपए 5000/- फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग ओर लगाया गया जुर्माना रूपए 50 लाख या उससे ज्यादा है वहां रूपए 10000/- फीस भेजनी होगी। की फीस सहायक रजिस्टार के नाम से रेखांकित बैंक ड्राफ्ट के रूप में संबंध की जाये। यह ड्राफ्ट उस स्थान के किसी नामित सार्वजनिक क्षेत्र के बैंक की शाखा का हो

The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 as prescribed under Rule 6 of Central Excise(Appeal) Rules, 2001 and shall be accompanied against (one which at least should be accompanied by a fee of Rs.1,000/-, Rs.5,000/- and Rs.10,000/- where amount of duty / penalty / demand / refund is upto 5 Lac, 5 Lac to 50 Lac and above 50-Lac respectively in the form of crossed bank draft in favour of Asstt. Registrar of a branch of any



nominate public sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated

(3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल आदेश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner notwithstanding the fact that the one appeal to the Appellate Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

(4) न्यायालय शुल्क अधिनियम 1970 यथा संशोधित की अनुसूची-1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर रु.6.50 पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।

One copy of application or O.I.O. as the case may be, and the order of the adjournment authority shall bear a court fee stamp of Rs.6.50 paise as prescribed under scheduled-I item of the court fee Act, 1975 as amended.

(5) इन ओर संबंधित मामलों को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्याविधि) नियम, 1982 में निहित है।

Attention is invited to the rules covering these and other related matter contended in the Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

(6) सीमा शुल्क, केन्द्रीय उत्पाद शुल्क एवं सेवाकर अपीलीय प्राधिकरण (सीस्टेट) के प्रति अपीलों के मामलों में केन्द्रीय उत्पाद शुल्क अधिनियम, 1984 की धारा 34फ के अंतर्गत वित्तीय(संख्या-2) अधिनियम 2014(2014 की संख्या 29) दिनांक: 06.08.2014 जो की वित्तीय अधिनियम, 1994 की धारा 83 के अंतर्गत सेवाकर को भी लागू की गई है, द्वारा निश्चित की गई पूर्व-राशि जमा करना अनिवार्य है, बशर्ते कि इस धारा के अंतर्गत जमा की जाने वाली अपेक्षित देय राशि दस करोड़ रूपए से अधिक न हो

केन्द्रीय उत्पाद शुल्क एवं सेवाकर के अंतर्गत " माँग किए गए शुल्क " में निम्न शामिल है

- (i) धारा 11 डी के अंतर्गत निर्धारित रकम
- (ii) सेनवैट जमा की ली गई गलत राशि
- (iii) सेनवैट जमा नियमावली के नियम 6 के अंतर्गत देय रकम

→ आगे बशर्ते यह कि इस धारा के प्रावधान वित्तीय (सं. 2) अधिनियम, 2014 के आरम्भ से पूर्व किसी अपीलीय प्राधिकारी के समक्ष विचाराधीन स्थगन अर्जी एवं अपील को लागू नहीं होंगे।

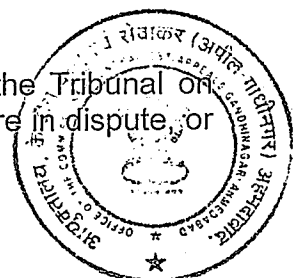
For an appeal to be filed before the CESTAT, it is mandatory to pre-deposit an amount specified under the Finance (No. 2) Act, 2014 (No. 25 of 2014) dated 06.08.2014, under section 35F of the Central Excise Act, 1944 which is also made applicable to Service Tax under section 83 of the Finance Act, 1994 provided the amount of pre-deposit payable would be subject to ceiling of Rs. Ten Crores,
Under Central Excise and Service Tax, "Duty demanded" shall include:

- (i) amount determined under Section 11 D;
- (ii) amount of erroneous Cenvat Credit taken;
- (iii) amount payable under Rule 6 of the Cenvat Credit Rules.

→ Provided further that the provisions of this Section shall not apply to the stay application and appeals pending before any appellate authority prior to the commencement of the Finance (No.2) Act, 2014.

(6)(i) इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो माँग किए गए शुल्क के 10% भुगतान पर और जहाँ केवल दण्ड विवादित हो तब दण्ड के 10% भुगतान पर की जा सकती है।

(6)(i) In view of above, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute or penalty, where penalty alone is in dispute."

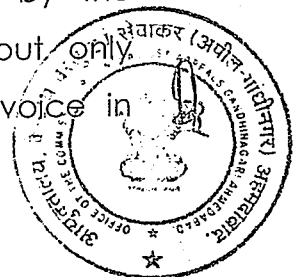


ORDER-IN-APPEAL

M/s. Sohni Ceramics, Motipura, Himatnagar (henceforth, "appellant") has filed the present appeal against the Order-in-Original No.AHM-CEX-003-ADC-AJS-019-17-18 dated 19.08.2018 (henceforth, "impugned order") passed by the Additional Commissioner, Central GST & Central Excise, Gandhinagar (henceforth, "adjudicating authority").

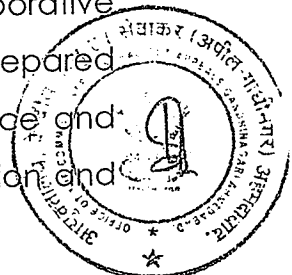
2. Brief facts of the case are that based on the intelligence of clearance of goods illicitly, the factory premise of the appellant who are a manufacturer of ceramic floor tiles was searched on 19.08.2011 by officers of Central Excise under regular panchanama wherein shortage of 106088 boxes of finished goods involving central excise duty Rs.19,21,626/- were found and one pen drive alongwith other documents were withdrawn. Illicit clearance of finished goods involving central excise duty Rs.41,74,490/- were also found from data retrieved from pen-drive. Investigation revealed that said shortage of finished goods as compared to statutory record was found due to clearance of the same without preparation of invoice and without payment of duty. The partners of the firm admitted that due to business loss they sold goods without payment of excise duty and they were ready to pay the duty. They also admitted that raw material clay and powder were purchase by them from market in cash and they show more use of freight and purchase corrugated boxes in cash and does not remember details of said suppliers. Show cause notice issued after the investigation demanding duty amounting to Rs.61,63,995/- invoking extended period was decided under impugned order confirming duty under Section 11A, order for interest under Section 11AA, imposing penalty Section 11AC of Central Excise Act, 1944 and on the partner of the firm under rule 26 of the Central Excise Rules, 2002.

3. Being aggrieved with the impugned order the appellant preferred this appeal contesting *inter alia*, that they use to maintain document namely 'Estimate' for each purchase order of finished goods whether materialized or otherwise. Duty of Rs.67428/- involved in annexure-II to the show cause notice is demanded twice which pertains to torned invoices found from waste paper basket; that estimate prepared as mentioned in annexure-II to the show cause notice which is considered by the department as illicit clearances is in fact not clearances but only purchase order materialized or not; that details of torned invoice in



Annexure A to statement dated 20.08.2011 of Shri Ishwarbhai Patel, partner has no cogent evidence regarding illicit clearance; that the adjudicating authority erred in considering statement of the partner which was taken under duress as erred in establishing fundamental criteria which are tangible evidence in clandestine manufacture and clearance.

3.2 They further argued that Clearance of the finished goods shown in the show cause notice was more than production capacity declared. This crucial fact has been ignored by the adjudicating authority; that it was a practice of the appellant to estimate for all purchase orders and on materialized clearance were reflected in the ER-1 returns. Therefore, annexure-II prepared based on such estimated quantity shown in pendrive is not veiled; that cross examination of witnesses was not allowed, Credibility of the statement is at task having no eventual value. All orders placed have been recorded in the 'Order Book' and 'Estimate' and it was not necessary to execute all the orders. All goods have not been cleared as mentioned in the said 'Estimate' in Annexure II; that production capacity of the kiln installed in the factory was 55000 to 60000 sqr.mtr.(i.e.approx 40000 boxes) per month. However, clearance of boxes considered more than the same in the show cause notice is far away from imagination. This crucial fact has been ignored by the adjudicating authority; that statement dated 02.09.2011 of Shri Dineshbhai Patel, and Shri Ishwarbhai Patel, partners seems to be recorded under pressure and cannot be accepted as valid documents. Further statement dated 27.09.2011 recorded in Hindi language of higher level which he was not able to understand. Statement dated 30.09.2011 of accountant Shri Mohanbhai Patel recorded in Hindi instead of Gujarati mentioning cash receipt from angadia is not supported with corroborative evidences by recording statement of angadia and hence cannot be relied upon. Also, in absence of statement of drivers, the statement of transporter of the goods cannot be considered as acceptable evidence; that since, there appears some mistake in ascertaining physical stock or in accounting and no buyers confirmation has been obtained as corroborative evidence, demand of Rs.19,21,626/- on shortage of finished goods is not just and sustainable in the eyes of law. Non accounting of raw material and purchase of the same in cash is also not supported by corroborative evidence; that goods on which we have paid duty and prepared invoices are covered under annexure -II to the show cause notice and hence demand of duty Rs.61,63,995/- is totally based on assumption and

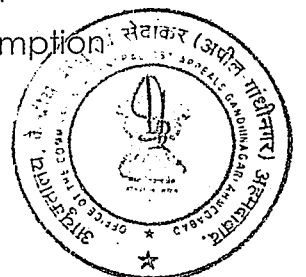


presumption and not sustainable; that no evidence to substantiate the case were found from premises of buyer. Also transporter have confirmed the transportation of the goods, they have not transported the goods but arranged vehicles from open market on commission basis.

3.3 It was further pleaded that there should be corroborative evidence by way of purchase, distributor or dealer. Only oral evidences in the form of statement of partners/employees are not valid evidence. Also no physical verification of raw material or packaging was conducted and no mention of the same made in the show cause notice; that the clandestine removal has to be established on the basis of direct, physical, positive and sufficient circumstantial evidence and not simply on the basis of the documents/records and oral evidence of partner/employee; that factory was closed since five years. One of the partner Shri Ishwarbhai Patel dealing with excise related works expired on 30.01.2015, hence could not file reply within time. With reference to imposition of penalty, they stated that as penalty is proposed on the firm, separate penalty cannot be imposed upon the partner. They cited various case laws in support of their claim in respect of duty as well as penalty.

4. In the Personal hearing held on 25.07.2018 Shri Mansukhbhai Patel, Partner of the firm and Shri B.R.Parmar, Ld. Consultant reiterated the grounds of appeal, requested for condonation of delay and filed additional submission dated dated 25.07.2018.

5. I have carefully gone through the appeal wherein based on intelligence, the factory premises of the appellant was searched by Central Excise officers, physical stock taking of finished goods was conducted to check it with stock accounted for and some torn invoices alongwith pen drive were withdrawn under panchanama. Investigation revealed that the appellant has failed to account for production and sales of finished goods manufactured by them, not prepared central excise invoice and clearance finished goods without payment of duty. Central Excise duty demanded on account of clandestine removal of goods has been confirmed under the impugned order alongwith interest and imposition of penalty by the adjudication authority. The appellant pleaded that demand of duty is based on assumption and presumption and which is bad in law and against principle of natural justice.

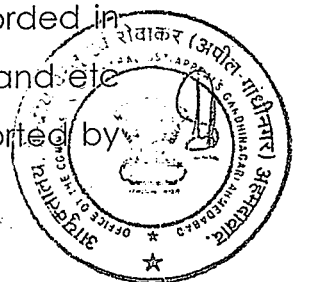


6. It is contested by the appellant that they use to maintain document namely 'Estimate' for each purchase order of finished goods likewise the daybook. This was maintained by them for company's record only and all such purchase orders were not materialized. However, in the statement dated 24.05.2012 Shri Ishwarbhai Patel, partner has admitted that in the document namely 'estimate' there are details related to clearance of ceramic floor tiles manufactured in their factory and in most of such clearances, no bills or invoices was prepared and that the details like estimates no., date, details of ceramic floor tiles, size, grade, quantity, rate, amount etc., mentioned in these estimate is true and correct. Regarding the name of the customer he stated that their company mentioned name of any buyers in case of cash transaction whereas the actual buyers were different ones and that, the production and illicit clearances relating to 'estimates' was not recorded in their books of account and no central excise duty has been paid on such clearance and details of illicit clearances made during the period from 01.04.2011 to 31.07.2011 is available in said documents. The work sheet 'annexure-II' to the show cause notice has been prepared based on annexure A to the panchanama dated 19/20.08.2011 wherein data retrieved from pen drive containing document named as 'estimate'. Said estimate ranging from Sr. no. I-910 dated 01.04.2011 to I-1000 dated 14.04.2011 and Sr. no. I-001 dated 14.04.2011 to I-755 dated 17.08.2011 has been recorded which pertains to illicit clearance of 288360 box of ceramic tiles involving value Rs.7,36,97,090/- and duty Rs. 41,74,940/- which has been admitted by partners/employees .

7. With reference to shortage of 106018 boxes of ceramic tiles involving value Rs.1,86,56,567/- and duty Rs.19,21,626/- found during physical stock taking details of which were recorded in annexure-B to the panchanama dated 19/20.08.2011, I find that it is bounden duty of the manufacturer to have a correct account on the materials used and the stock of the raw materials, semi finished goods and finished goods. If there is shortage of goods, this will lead to investigation by the Department. In the instant case, the clandestine removal of finished goods has admitted by partners/employees during panchanama and statements. Further, the non-payment of duty Rs.67,428/- as well as issuing of parallel invoice has also been admitted by partners. The same has been confirmed by Shri Manubhai Pandya, data entry operator in his statement dated 20.08.2011.



In the statement of various employee and partners of the appellant firm it is admitted that they have suppressed the production and un-accounted goods were removed clandestinely without payment of duty. Further, the plea of the appellant that statement was recorded under pressure, that taken under duress and that recorded in Hindi language of higher level which they were not able to understand does not deserve merit as none of the statement was retracted by anyone. It is contested that the aspect of production capacity of the kiln installed in the factory has been ignored by the adjudicating authority as the clearance of the finished goods shown in the show cause notice was more than production capacity declared. However, Shri Pankaj Kumar saxena, production and quality manager in his statement dated 20.08.2011 has stated that production capacity of the kiln is 60000 to 65000 sqmtrs and working with maximum capacity. The stock of 1,94,625 boxes on recorded in statutory record RG-1 on 20.08.2011 itself supports that manufacturing capacity of the kiln was higher. Also the figures provided by the appellant for comparison with their production capacity is regarding clearance of finished goods under ER-1 and annexure-II, comparison of the same cannot justify the issue. Therefore, in absence of any substantial evidence; the plea that production capacity is ignored does not hold merit. It is contested by the appellant that oral evidences in the form of statement of partners/employees are not valid evidence. However, I find so far as the statement has not been retracted by anyone, its relevancy cannot be ignored. If the statements were recorded under pressure, the same would have been retracted. The plea of the appellant that no physical verification of raw material or packaging was conducted has no base and seems afterthought. It is also contested that cross examination of witnesses was not allowed by the adjudicating authority. However in the instant case the partners and employees have categorically admitted the clandestine removal of finished goods which were again repeated in further statement and hence granting of cross examination not required. In view of the fact on record that the partners of the appellant firm in their statement clearly admitted the clandestine clearance of the finished goods from the factory premises, and voluntarily paid Rs.15,00,000/- towards duty liability on such clearance, the grounds raised by the appellant with respect to production capacity criteria, statements given pressure/duress, purchase order not materialized, statement recorded in Hindi language of higher level which he was not able to understand etc are afterthought and cannot be considered. My views are supported by



CESTAT, Principal Bench, New Delhi reported in case of Shri Laxminarayan Real Ispat Pvt Ltd v/s Commissioner of Central Excise & Service Tax ,Surat 2017 (357) E.L.T. 713 (Tri. - Del.), relevant portion of of which are reproduced below:

7. Since the Director has categorically admitted non-accountal of raw material and clandestine removal of the finished goods and the statements has not been retracted before the Central Excise Officers, I am of the view that Central Excise duty along with interest and penalty confirmed against the appellant by the authorities below is proper and justified.

8. With reference to imposition of penalty on the appellant firm, I find that the appellant was guiltfully and fraudulently involved in clandestine clearance of finished goods and the error committed is not bonafide one and hence imposition of penalty under Rule 25 of Central Excise Rules, 2002 readwith Section 11AC of Central Excise Act,1994 under the impugned order need not require any interference.

9. In view of aforesaid discussion, I uphold the impugned order and reject the appeal.

10. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

The appeal filed by the appellant stands disposed of in above terms.

उमा शंकर

(उमा शंकर)

केन्द्रीय कर आयुक्त (अपील्स)

Date:

Attested

[Signature]
(D.A. Poonia)
Superintendent, Central Tax (Appeals)
Ahmedabad.

By R.P.A.D.

To,

M/s. Sohni Ceramics,

C/o . M/s. G B patel & Associates.,229, Binali Complex,Opp-Torrent
Power,Sola Road,,Naranpura,Ahmedabad.

Copy to:

1. The Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner of Central Tax, Gandhinagar.
3. The Additional Commissioner, Central Tax (System), Gandhinagar.
4. The Asstt./Deputy Commissioner, Central Tax, Division-Himatnagar.
5. Guard File.
6. P.A.

