FAX : 0532-2400149 REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 28/11/2017

To

Appellant as per address in table below
Respondent as per address in table below

Final Order No. A/71669/2017-SM[BR] dated 24/11/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the **Central Excise and Salt Act, 1944.**

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/70552/2016	**Ranjan Srivastava Director Of** M/s T.s.n. Enterprises Pvt. Ltd., B-197, Kedar Nagar, Shahganj, AGRA (U.P.)- 282010
		Name and Address of Respondent
2		C.C.E. & S.T-Agra COMMISSIONER OF CUSTOMS, CENTRAL EXCISE & SERVICE TAX113/4, SANJAY PLACE, AGRA - U.P.-282002

Copy To
3Advocate(s) / Consultant(s):

K. K. Anand, Advocate
A-103, DEFENCE COLONY,
NEW DELHI, 110024

4 Bar Association, CESTAT, Allahabad

5 Director Publications, Customs, Excise. I.P. Estate, 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 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

12 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

13 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

14 C.D.R. 15 Office Copy 16 Second Folder Copy 17 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. E/70552/2016-EX[SM]

(Arising out of Order-in-Appeal No. 482-483-CE/APPL-AGRA/LKO/2015 dated 10/12/2015 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Lucknow)

M/s Ranjan Srivastava, Director **Appellant**

Vs.

Commissioner of Central Excise & Service Tax, Agra **Respondent**

Appearance:

Ms. Surabhi Sinha, Advocate, for Appellant
Shri Shri Pawan Kumar Singh, Superintendent (AR), for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Date of Hearing & Date of Decision : 24/11/2017

FINAL ORDER NO. 71669/2017

Per: Archana Wadhwa

The challenge in the present appeal is to penalty of Rs.1 lakh imposed upon the appellant, who is Director of one M/s T.S.N. Enterprises Pvt. Ltd. The said penalty is imposed upon him in terms of the provisions of Rule 26 of the Central Excise Rules, 2002.

2. As per the facts on record, M/s T.S.N. Enterprises Pvt. Ltd. was a unit engaged in the manufacture of Cigarettes. Based upon certain investigations, a case of clandestine activity was made out against the said manufacturing unit

resulting in confirmation of demand of Rs.5,36,511/- along with imposition of penalty of identical amount under Section 11AC of the Central Excise Act, 1944. In addition, penalty of Rs.1 lakh was imposed upon the present appellant i.e. Director of the Company.

3. On appeal against the above order, the Appellate Authority observed that in as much as the entire duty stands paid by the manufacturing unit before the issuance of the Show Cause Notice and if the said assessee deposits 25% of the penalty within a period of 30 days from the passing of the order, the penalty would stand reduced to 25%. However, in respect of the present appellant, he upheld the imposition of penalty of Rs.1 lakh by observing that as per the statement of the said Director of the Company, he was actively involved in the surreptitious manufacture of the Cigarettes and the clandestine removal of the same. Hence, the present filed by the said Director of the Company.

4. The only ground put forth by the ld. Advocate is that in as much as, the manufacturing unit has deposited entire duty prior to the issuance of the Show Cause Notice and further the penalty imposed upon the manufacturing unit stands reduced to 25%, the penalty in the present case may be reduced to that extent. She undertakes to deposit 25% of the penalty within a period of 30 days of passing of the present impugned order.

5. After hearing the ld. A. R. for Revenue, I find that there is no contest to the issue that the Director of the Company was the involved party in the clandestine activity of the manufacturing unit. As such, penalty upon his is liable to be upheld. However, appreciating that the penalty on the main assessee stands reduced 25%, I reduce the penalty in the present appeal to Rs.25,000/-, in case, the appellant deposits the same within a period of 30 days from today. In case, the said deposit is not paid by the appellant, the penalty of Rs.1 lakh on the appellant would stand upheld.

6. In above terms, appeal is disposed of.

(Dictated & Pronounced in Court)

Sd/-
(Archana Wadhawa)
Member(Judicial)

Ansari

प्रमाणित प्रति/Certified True Copy
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सहायक पंजीकार/Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण/C.E.S.T.A.T.)
38, एम.जी.मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001