

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

Appeal No. E/1146/2006

Date 13/02/2008

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

To :
M/S THE SHIRLEY DYERS
SANGRANA SAHIB, TARN TARAN ROAD, AMRITSAR

M/S THE SHIRLEY DYERS

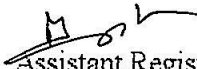
Appellant

C.C.E. CHANDIGARH

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 48/2008
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

Excise dated 30-1-08


Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

C.C.E. CHANDIGARH

C.R. BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH 160017
160017

2. Adv. / Consult

MR. RAMESH MEHRA, ADV

3415, ALFA LANE, BATALA ROAD, AMRITSAR

3. ~~C.D.R.~~

5. Bar association. CESTAT, New Delhi
6. M/s. Deeparchi Publications. M-93, marg. 43, saket, New
7. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301
9. R. Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -
10. Nidheshak publications. I.P. Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,
12. Co, Law Institution
13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file


Assistant Registrar
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R.K.Puram, New Delhi-110066.
Principal Bench, New Delhi.

E/APPEAL NO.1146/06

[Arising out of Order-in-Appeal No.273/CE/JAL/2005 dt.16.11.05
passed by the Commissioner(Appeals), Chandigarh)

For approval and signature:

Hon'ble Mr. JUSTICE S.N.JHA, PRESIDENT
Hon'ble Mr. A.K.SRIVASTAVA, MEMBER TECHNICAL

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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 would 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 :
Department Authorities:

M/s. The Shirley Dyers

Appellant

Versus

CCE, Chandigarh

Respondent

Appearance

None For Appellant

Sh. S.M.Tata, Authorised Representative(DR)For Respondent

Coram: Hon'ble Mr. Justice S.N.Jha, President
Hon'ble Mr. A.K.Srivastava, Member Technical

Date of decision: 30.1.08

Final order No. 48/08-EX

Per Justice S.N.Jha:

None appeared on behalf of the appellant. Heard Ld. DR on behalf of the Revenue. At the outset he mentioned that the appeal stands dismissed for non-compliance under Section 35F of the Central Excise Act vide order dated 9.8.06. Earlier, on 23.5.06 the Tribunal had directed the appellant to pre-deposit a sum of Rs.1,50,000/- within eight weeks, failing which the appeal stand dismissed. As the said order was not complied with, the appeal was dismissed on 9.8.06 as mentioned above. The appellant moved the Punjab & Haryana High Court in Civil Petition No.18639 of 2006 challenging the said order dt.23.5.06. On 21.3.07 the order was set aside with direction to this Tribunal to entertain this appeal and decide the same on merits without insisting on the requirement of pre-deposit. The order dismissing the appeal dt.8/9.8.08 was also set aside. The appeal has accordingly come up for hearing before us.

2. On perusal of the record, it appears that the Commissioner(Appeals) had dismissed the appeal of the appellant on similar ground i.e non-compliance under Section 35F of Central Excise Act.1944 on failure to deposit the amount of Rs.1,50,000/-. Without going into merits of the case, we are of the view that it would be appropriate if the matter goes back to the Appellate Authority i.e. Commissioner(Appeals) for decision on merits. As the Hon'ble High Court had directed the Tribunal to decide the matter without insisting on pre-deposit, we clarify that the appeal before

Commissioner(Appeals) shall be heard on merits without insisting on pre-deposit.

3. In the circumstances, the impugned order is set aside and the appeal is remanded to the Commissioner for de novo consideration.

Order dictated in the open Court.

(Justice S.N.Jha)
President

(A.K.Srivastava)
Member Technical

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