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

REGISTERED / AD
Email : delhi@cestat.gov.in

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

Date 16/07/2008

Appeal No. E/4411/2004-4412/2004,4478/2004

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

To :
M/S NAVEEN INDL. LTD.
235, INDUSTRIAL ESTATE, N. DELHI-202002

Appellant

M/S NAVEEN INDL. LTD.

Vs

Respondent

C.C.E. GHAZIABAD

I am directed to transmit herewith a certified copy of **Final order No.** 473-475/2008-Excise dated 11-7-08

passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
   C.C.E. GHAZIABAD
   CGO COMPLEX-II, KAMLA NEHRU NAGAR, GHAZIABAD
2. Adv. / Consult
   MR.BIPIN GARG
   B-1/1289,A-VASANT KUNJ, NEW DELHI
3. S.D.R.
4. ~~J.C.D.R.~~
5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017
7. M/s Centax Publictions (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar. (U.P.)
9. Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT. U.P
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
12. Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar,Chennai 60017
13. Taxindiaonline.com Pvt.Ltd. B-XI/8183,Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file

Assistant Registrar
(Excise Appeal Branch)

P.T.O.

1 M/S NAVEEN KOHLI AND ASHITA KOHLI DIRECTORS
235 OKHLA INDL. ESTATE, NEW DELHI
202002
2 M/S ~~NAVEEN KOHLI AND~~ ASHITA KOHLI DIRECTORS
235 OKHLA INDL. ESTATE, NEW DELHI
202002

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

Court No.III

Date of hearing: 10.7.2008

Central Excise Appeal Nos.4411 – 4412 & 4478 of 2004

Arising out of the Order in Appeal No.319-320/CE/GHB/2003 dated 12.9.03 passed by the Commissioner (Appeals), Customs & Central Excise, Ghaziabad.

For Approval and Signature:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. M. Veeraiyan, Member (Technical)

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 27 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No.
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

Appellants		Respondent
M/s Naveen Industrial Projects P. Ltd. Sh. Naveen Kohli, Director Ms.Ashita Kohli, Director	vs.	C.C.E., Ghaziabad

Appearance:

Shri Bipin Garg, Advocate with Shri Atul Gupta, C.S. for the appellants and Shri S. Kumar, Authorized Departmental Representative (DR) for the Revenue

Coram: Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. M. Veeraiyan, Member (Technical)

FINAL Order No. 473-475/08-EX

Per Archana Wadhwa:

Duty of Rs.1,13,875/- stands confirmed by the authorities below in remand proceedings on the ground that the appellant has not been able to establish with documentary evidence to apportion charges , which may relate to the civil construction that is, post manufacturing expenses and as such, the benefit of the same cannot be extended. Learned Advocate appearing for the appellants does not dispute the duty confirmation on the above ground as he fairly agrees that such document could not be produced by them. However, he submits that imposition of penalty of Rs,50,000/- on each of the appellants was not justified , inasmuch as the matter was of bona fide dispute and no mala fide is attributable to the appellants. He also submits that in the earlier proceedings where the appellant could produce the document, demand was dropped and penalty was set aside by the Commissioner (Appeals).

2. After appreciating the above submissions made by the learned Advocate, we confirm the demand of duty. However, as regards the penalty imposed on each of the appellants, we agree with learned Advocate that the issue involved is of bona fide interpretation of law, in which case, the penalties are not justified. We, accordingly, set aside the penalties imposed upon all the appellants. All the appeals are disposed of.

(Pronounced in the open Court)

11.7.08

(Archana Wadhwa)
Member (Judicial)

11/7/08

(M. Veeraiyan)
Member (Technical)

scd/