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

Appeal No. E 1151 2008 WITH E S 1131/08 Date 09/07/2008

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

To :
M S PARABOLIC DRUGS LTD

VILLAGE: SUNDRAN,
P O MUBARAKPUR,
DERA BASSI
DISTT MOHALI (PB)

M S PARABOLIC DRUGS LTD Appellant
Vs
C.C.E. CHANDIGARH Respondent

I am directed to transmit herewith a certified copy of **Final order No835/08 & S.O.NO.699/08** **Excise** dated 7-7-08 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. CHANDIGARH
   C.R. BUILDING, PLOT NO. 19, SECTOR 17-C, CHANDIGARH 160017
2. Adv. / Consult
   MR AJAY JAIN
   1293, SEC 18-C, CHANDIGARH
3. C.D.R.
4. ~~ICDR~~
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)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Excise Appeal No. 1151 of 2008 with
Excise Stay Application No. 1131 of 2008

(Arising out of Order-in-Appeal No. 189/CE/CHD/2008 dated 11.03.2008 passed by the Commissioner of Central Excise, Chandigarh).

DATE OF HEARING : 03.07.2008
DATE OF DECISION : 03.07.2008

FOR APPROVAL AND SIGNATURE :

HON'BLE MRS. ARCHANA WADHWA, MEMBER (JUDICIAL)
HON'BLE MR. M. VEERAIYAN, MEMBER (TECHNICAL)

1.	Whether Press Reporters 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 the 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.

M/s Parabolic Drugs Ltd. .... **Appellant**
(Rep by Sh. Ajai Jain, Adv.)

VERSUS

CCE, Chandigarh .... **Respondent**
(Rep. by Sh. V.K. Agarwal, DR)

CORAM : **HON'BLE MRS. ARCHANA WADHWA, MEMBER (J)**
HON'BLE MR. M. VEERAIYAN, MEMBER (T)

STAY ORDER NO. 597/08-EX
FINAL ORDER NO. 935/08-EX

PER ARCHANA WADHWA :

Inasmuch as the entire duty demand stands deposited along with deposit of 25% penalty amount, we dispense with the condition of pre-deposit of balance penalty amount and proceed to decide the appeal itself as the Commissioner (Appeals) has dismissed the appeal for non-compliance with the stay order passed by him.

2. After hearing both sides and after going through the impugned order, we find that the duty amount was deposited even before the issuance of the show cause notice and 25% of penalty amount was deposited within a period of one month from the date of passing of the order by the original adjudicating authority. In terms of the proviso to Section 11-AC, if penalty amount is deposited within a period of 30 days from the passing of the order, the penalty automatically gets reduced to that amount. The appellant having deposited the penalty amount to the extent of 25% within a period of one month, the penalty got reduced to the said amount in terms of proviso to Section 11-AC, in which case the direction of the Commissioner (Appeals) to deposit the balance amount of penalty for the purposes of Section 35-F, was not warranted. As a consequence, the disposal of the appeal for non-compliance by the Commissioner

(Appeals) is also not in accordance with law. We accordingly set aside the impugned order and remand the matter to the Commissioner (Appeals) for decision on merits without insisting for any further pre-deposit. Appeal as well as stay application stands disposed of in the above manner.

(Dictated and pronounced in the open Court on the 3RD day of July, 2008)

4.7.08

(ARCHANA WADHWA)
MEMBER (JUDICIAL)

7/7/08

(M. VEERAIYAN)
MEMBER (TECHNICAL)

Golay