TELEGRAM : CEGCANAL
Web : 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/520 /2006 - EX[DB]

Date 25/09/2009

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

To :
ALFA AUTO INDUSTRIES LTD.
VILLAGE MALIKPUR, P.O. AHMEDGARH SANGRUR
ALFA AUTO INDUSTRIES LTD.

Appellant
Vs
Respondent

C.C.E. CHANDIGARH

I am directed to transmit herewith a certified copy of **Final order No. 732/2009 EX[DB]** dated 16-9-09

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 SH. ATUL GUPTA, B-1/1289-A, VASANT KUNJ, N. DELHI-70
3. C.D.R
4. ~~J.C.D.R.~~
5. Bar association, CESTAT, New Delhi
6. Director Publications, Customs, Excise. I.P. Estate, New Delhi
7. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
8. Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9. Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10. M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)
11. M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
12. Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
13. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
14. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
15. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
16. Office Copy
17. Guard file

Assistant Registrar
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. II

DATE OF HEARING : 01/9/09.

Excise Appeal No. 520 of 2006

M/s Alfa Auto Industries Ltd. — Appellant

Versus

CCE, Chandigarh — Respondent

Appearance

Shri Atul Gupta, C.S. – for the appellant.

Shri Vijai Kumar, Authorized Representative (SDR) – for the Respondent.

CORAM : **Hon'ble Shri D.N. Panda, Judicial Member**
Hon'ble Shri Rakesh Kumar, Technical Member

FINAL Order No. 732/09-EX Dated : ____________

ORDER

Per. D.N. Panda :-

The precise question in this appeal is whether penalty shall be levied for one day delay of payment of interest in compliance to the order passed by the Settlement Commission. Shri Atul Gupta, learned C.S. submits that they had carried out the Settlement Commission's direction in toto except making one day delay for payment of the interest. There is also no dispute as to the discharge of interest liability. But learned Adjudicating Authority imposed penalty of Rs. 3,37,477/- (Rupees Three Lakh Thirty Seven Thousand Four Hundred Seventy Seven) for one day delay. He prays that impugned order may be set aside and the appellant may be relieved from penalty. Alternatively he prays that an opportunity may be granted to move to Settlement Commission for condoning the delay and to grant appropriate relief, sending the matter to lower authority.

2. Learned DR Shri Vijai Kumar opposes submission of learned C.S. and submits that once there is a default to carry out directions of the Settlement Commission, the immunity stands withdrawn. Therefore, appellant is liable for penalty. But learned DR does not disagree if the matter is sent back to the learned Adjudicating Authority to keep the matter in abeyance to grant an opportunity to the appellant to make a prayer before the Settlement Commission for condoning one day delay, if any, so that the appellant may get appropriate relief before the Adjudicating Authority itself or before the Settlement Commission itself.

3. Heard both sides and perused the record.

3.1 There is no dispute that there was only one day delay in discharge of the interest liability. It is the requirement of law that order passed by the Settlement Commission is conclusive as to the matter covered by the order in terms of Section 35M of the Central Excise Act, 1944. Defiance to the order so passed invites consequences under the law. This is the case of only one day default. Therefore, it is proper to send the matter back to the learned Adjudicating Authority and keep the matter in abeyance before him in view of the prayer by the Appellant that they shall pursue ~~peruse~~ remedy before Settlement Commission for appropriate relief. We direct accordingly.

4. In the result, the matter is remanded to the learned Adjudicating Authority.

(Dictated and pronounced in open court)

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

PK