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

Appeal No. C/517 /2005

Date 24/07/2008

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

To :
THE COMMISSIONER CUSTOMS, AMRITSAR

THE COMMISSIONER CUSTOMS, AMRITSAR

M/S AJAY KUMAR & CO

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. C/244/08-CUS. DATED 08.07.08
passed by the Tribunal under Section 129. (B) of the Customs Act.1962 & Financial Act 1994 relating to Service Tax


Assistant Registrar

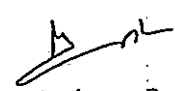
(Customs Appeal Branch)

Copy to :
1. Respondent

M/S AJAY KUMAR & CO.,
184 DILBAGH NAGAR, JALANDHAR.

2. Adv. / Consult KHAITAN & JAYAKAR. ADVS.,
D-41, DEFENCE COLONY, N.D. - 24.

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 Publications (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, Indrapuram - 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
(Customs 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

Customs Appeal No. 517 of 2005

[Arising out of the Order-in-Original No. 08-10/2004 dated 27/04/2004 passed by The Commissioner of Customs, Amritsar.]

For Approval and signature :

Hon'ble Shri S.S. Kang, Vice President

Hon'ble Shri Rakesh Kumar, 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?
 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?
-

CC, Amritsar

Appellant

[Shri B.K. Singh, Auth. Rep. (DR)]

Versus

M/s Ajay Kumar & Co.

Respondent

[Shri Ram Vijay, Advocate]

**CORAM : Hon'ble Shri S.S. Kang, Vice President
Hon'ble Shri Rakesh Kumar, Member (Technical)**

DATE OF HEARING : 08/07/2008.

Final Order No. C/244/08 Dated : 8/7/08

Per. S.S. Kang :-

Heard both sides. Revenue filed this appeal for imposition of penalty on M/s Ajay Kumar and Co. and Shri Rajesh Kumar, Proprietor of M/s Parker Industries. We find that against the same adjudication order Mr. Ajay Kumar and Co. filed appeal before the Tribunal and the Tribunal vide final order No. 128/06 dated 18/04/06 set aside the demand. Further, we find that appeal filed by the Revenue against the decision of the Tribunal is dismissed by Hon'ble Punjab & Haryana High Court. As the demand ^{has} already been set aside, therefore, we find no merit in the present appeal, which is only for imposition of penalty.

2. In respect of the prayer for imposition of penalty on the proprietor of M/s Parker Industries, we find that Adjudicating Authority imposed the penalty on the proprietary firm. It is well settled law that penalty can be imposed on the proprietor or proprietary concern, as the penalty on the proprietary concern has already imposed, therefore, we find no merit in the contention of the revenue. The appeal is dismissed.

(Dictated and pronounced in open court)

(S.S. Kang)
Vice President

(Rakesh Kumar)
Member (Technical)

PK