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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. ST/102 /2007-103 /2007

Date 07/07/2008

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

To :
C.C.E. JAIPUR

N.C.R. BUILDING, C-SCHEME, JAIPUR-302005.

C.C.E. JAIPUR

K.P.AUTOMOTIVE PVT. LTD.

Appellant

Vs

Respondent

I am directed to transmit herewith a certified copy of Final order No. ST/107-108/08 Customs dated 3-6-08 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

K.P.AUTOMOTIVE PVT. LTD.

E-198, RIICO INDUSTRIAL AREA, MANSAROVER JAIPUR (RAJ.)

2. Adv. / Consult

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. 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, 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

(Customs Appeal Branch)

1 K.P.AUTOMOTIVE PVT. LTD.

E-198, RIICO INDUSTRIAL AREA, MANSAROVER, JAIPUR (RAJ.)

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

Service Tax Appeal No.102-103 of 2007/CST

[Arising out of Order-in-Appeal 109-110(GRM)/ST/JPR-I/06
dt30.11.06 passed by the Commissioner(Appeals), Jaipur)

For approval and signature:

Hon'ble Mr. S.S.KANG, VICE PRESIDENT

Hon'ble Mr. RAKESH KUMAR, 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? | W |
| 2. | Whether it would 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? | All |
| 4. | Whether order is to be circulated to the :
Department Authorities: | W |
-

CCE, Jaipur

Appellant

Versus

M/s. K.P.Automotive Pvt. Ltd.

Respondent

Appearance

Sh. A.K.Madan, Authorised Departmental Representative(DR) For appellant
None for respondent

Coram: Hon'ble Mr. S.S.KANG, VICE PRESIDENT

Hon'ble Mr. RAKESH KUMAR, MEMBER TECHNICAL

Final

Date of decision: 3.6.08

Order No. ST/107-108/08

Per S.S.Kang:

Heard Ld. DR and none appeared on behalf of the respondent.

2. The revenue filed these appeals against the impugned order whereby
the penalty imposed under Section 76 & 78 of the Finance Act has been
reduced by the Commissioner(Appeals). The Commissioner(Appeals)

reduced the penalty under Section 78 of the Finance Act from Rs.255411/- to Rs.227481/-. The contention of the revenue is that as per the provisions of Section 78, the penalty should be equal to the amount of service tax.

3. We find that Section 80 of the Finance Act provides that notwithstanding anything contained in the provision of Section 76, 77 & 78, no penalty shall be imposable for any failure if assessee proves that there was reasonable cause for said failure. In the present case, the Commissioner(Appeals) after taking into consideration the fact that the respondent deposited some amount immediately when revenue pointed out the same ^{and} exercised the discretion by reducing the penalty of only Rs.27930/-. Keeping in view the facts and circumstances of the case, we find no ground to interfere with the discretion exercised by the Commissioner(Appeals). The appeals filed by the revenue are dismissed.

Order dictated in the open Court.

(S.S.Kang)
Vice President

(Rakesh Kumar)
Member Technical

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