

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

Appeal No. ST/446 -447/2007-SM[BR]

Date 16/01/2008

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

To :
C.C.E. CHANDIGARH
C.R. BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH 160017

C.C.E. CHANDIGARH

M/S AK&I ADVERTISING AND M/S IB& W
COMMUNICATINS, CHANDIGARH

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 80-81/2008-SM[BR] dated 20.12.2007
passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

M/S AK&I ADVERTISING AND M/S IB& W
COMMUNICATINS, CHANDIGARH
SCO,18,SECTOR-26,CHANDIGARH

2. Adv. / Consult


NONE-

3. S.D.R.

~~4. J.C.D.R.~~

5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, marg. 43, saket, New
7. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301
9. R.Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,
12. Co, Law Institution
13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file

2. M/S IB& W COMMUNICATINS, CHANDIGARH
SCO,18,SECTOR-26,CHANDIGARH


Assistant Registrar
(SM Appeal Branch)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL,
R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH
NEW DELHI, COURT NO.I**

Service Tax Appeal Nos. 446-447 of 2007-Single Member Branch

[Arising out of Order-in-Appeal No.12-128/CE/CHD/2007 dated 25.4.2007 passed by the Commissioner (Appeals), Customs and Central Excise, Chandigarh]

Date of Hearing/Decision: 20.12.2007

For approval and signature:

Hon'ble Ms. Jyoti Balasundaram, Vice-President

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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. | : | <i>No</i> |
| 2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? | : | <i>No</i> |
| 3. Whether Their Lordships wish to see the fair copy of the Order? | : | <i>Seen</i> |
| 4. Whether Order is to be circulated to the Departmental authorities? | : | <i>Yes</i> |
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Commissioner of Central Excise, Chandigarh Appellant

Vs.

M/s. AK&I Advertising Respondent
M/s. IB&W Communications

Appearance:

Mr.B.S. Suhag, Authorized Representative(DR) for the Appellant
None for the Respondent

CORAM: Ms. Jyoti Balasundaram, Vice-President

Final Order No 80-81 | 08-11-2007 (BR)

Per Jyoti Balasundaram:

The Revenue is aggrieved by the order of the Commissioner (Appeals) in so far as it relates to reduction of penalty imposed by the adjudicating authority on both the respondents herein.

2. I have heard the learned DR and perused the records as none appears for the respondents inspite of notice. The Commissioner (Appeals) has reduced the penalty imposed on both the respondents both under the provisions of Sections 76 and 78 of the Finance Act, 1994 by keeping in view the fact that the principal amount of ST has already been paid together with interest and therefore, a lenient view is required to be extended. However, I find merit in Revenue's submissions based on the language of Sections 76 and 78 that the penalty prescribed therein is the minimum penalty for the reasons that the words used in both the sections are that "the penalty imposed shall not be less than.....". My view finds support from Tribunal's order in **Trans (India) Shipping Pvt. Ltd. Vs. CCE, Chennai-I, 2005(188) ELT 445.**

3. Following the ratio of the above decision, and noting that the penalty imposed by the adjudicating authority has not exceeded the service tax payable by the respondents, I set-aside the impugned order by restoring penalty to the level imposed by the adjudicating authority in both the cases and allow the appeals.

[Dictated and pronounced in the open Court]

[Jyoti Balasunaram]
Vice-President

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