

**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/300 /2007-SM[BR]

Date 23/01/2008

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

To :  
R.K.ASSOCIATES,  
SEHDEV MARKET, JALANDHAR

R.K.ASSOCIATES,

Appellant

Vs  
Respondent

C.C.E. JALLANDHAR(HQ. AT CHANDIGARH)

I am directed to transmit herewith a certified copy of Final order No. 115/2008-SM[BR] dated 14.12.2007 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

C.C.E. JALLANDHAR(HQ. AT CHANDIGARH)

C.R.BUILDING, PLOT NO. 19, SECTOR 17-C,  
CHANDIGARH.

2. Adv. / Consult SHRI, VIKAS KHANDELWAL ADV.  
M/S R. K. ASSOCIATES

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

  
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. III**

**Service Tax Appeal No.300 of 2007 -SM (BR)**

[Arising out of revision order No. 70/CE/JAL/06 dated 28.11.2006 passed by the Commissioner of Central Excise, Jalandhar]

Date of Hearing/ Decision: 14.12.2007

**For approval and signature:**

**Hon'ble Mr. P.K. Das, Member (Judicial)**

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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.         | : |   |
| 2. Whether it should 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 Departmental authorities?  | : | } |
- 

M/s R. K. Associates Appellant  
[Rep. by Mr. Vikas Khandelwal, Advocate for the appellant]

Vs.

CCE, Jalandhar Respondent  
[Rep. by Mr. S. L. Meena, Authorised Representative (DR)  
for the Respondent]

**CORAM: Mr. P.K. Das, Member (Judicial)**

*Final* ORDER No 115/08-SM(BR)

**Per P.K. Das:**

The appellant filed this appeal against imposition of penalty under section 76, 77 and 78 of the Finance Act, 1994 by revision order dated 28.11.2006. After hearing both the sides and on perusal of the records, I find that the Commissioner while imposing penalty have observed that the

appellants had not adduced any reasonable cause for such failure to pay the tax before the adjudicating authority or before him and therefore, benefit of Section 80 cannot be granted. On perusal of the adjudication order, I find that the Assistant Commissioner had not imposed penalty under Section 76, 77 & 78 upon power vested under Section 80 of the Finance Act. It is seen that he has given the reason as under:-

“However, at the earlier stage, the noticee was not aware of the levy of service tax on the consignment agent falling under the category of C&F agent. When they came to know the levy of service tax on them, they got themselves registered with the department and paying service tax thereafter. Thus I find that the failure on the part of noticee was not voluntarily but due to the unawareness of the law. Thus, I take a lenient view against the noticee in the power vested with me under Section 80 of the Finance Act, 1994”.

2. In view of the above finding of the Assistant Commissioner of Central Excise, the finding of the Commissioner of Central Excise in revision application is not sustainable. So, the imposition of penalty in revision order is unwarranted and accordingly it is set-aside. The appeal is allowed with consequential relief.

(Order dictated and pronounced in the open Court)

(P.K. Das)  
Member (Judicial)

[Pant]