

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

Appeal No. E/340 /2007 - SM[BR]

Date 16/09/2008

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

To :
C.C.E.KANPUR

117/7, SARVODAYA NAGAR, KANPAUR.

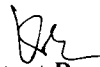
C.C.E.KANPUR

M/S KASHI INDUSTRIES

Appellant

Vs
Respondent

I am directed to transmit herewith a certified copy of **Final order No. 1312 / 2008 SM[BR]** dated 9.9.2008
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

M/S KASHI INDUSTRIES

MAGARWARA, UNNA(UP)

2. Adv. / Consult SHRI. HEMANT BAJAJ ADV.

N/V;-----

3. S.D.R.

~~4. I.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, 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. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15

15. Office Copy

16. Guard file


Assistant Registrar
(SM Appeal Branch)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, NEW DELHI
PRINCIPAL BENCH NEW DELHI**

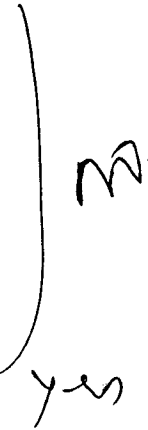
Excise Appeal No.340 of 2007 -SM (BR)

[Arising out of common Order-in-Appeal No.551-CE/APPL/KNP/2006 dated 13.11.2006 passed by the Commissioner of Central Excise (Appeals), Kanpur]

Date of Hearing/ Decision:9.9.2008

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 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? | : | |
-

CCE, Kanpur

...Appellants

[Rep. by Shri R.K. Verma, Authorised Departmental Representative]

Vs.

M/s. Kashi Industries

...Respondents

[Rep. by Shri Hemant Bajaj, Advocate]

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

Final Order No. 1312/08-SM(BR) Dated: 9.9.2008

Per P.K. Das:

After hearing both the sides and on perusal of the records, it is seen that the Adjudicating Authority imposed penalty of Rs.5,000/- under Rule 13 of the Cenvat Credit Rules, 2002.

2. Revenue filed appeal before the Commissioner (Appeals) for imposition of minimum penalty of Rs.10,000/- under the said Rules, which has been rejected. Hence, Revenue filed this appeal before this Tribunal.

3. Ld. DR submits that a penalty of less than Rs.10,000/- cannot be imposed on a person under Rule 13 of the Cenvat Credit Rules, 2002. The Larger Bench of the Tribunal in the case of CCE, Bhopal Vs. Rama Wood Craft Pvt. Ltd. reported in 2008 (85) ELT 827 (CESTAT-LB) held that penalty can be ^{my 2nd} ~~lower~~ depending on relevant factors in a case. It has further been held that if minimum penalty is prescribed, the Authority has discretion to impose lesser penalty depending on the facts and circumstances of the case.

4. In view of that, I do not find any reason to interfere the order of the Commissioner (Appeals). Accordingly, the appeal filed by the Revenue is rejected.

Order dictated & pronounced in open court on 9.9.2008.

(P.K. Das)
Member (Judicial)

Ckp.