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

Date 10/10/2008

Appeal No. E/68 /2007 - SM

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

To :
K.K. GARG, PROPERIETOR
BOMBAY TRADERS, RAM BAZAR, MORI GATE,
ABOVE SETHI MILK SCHEME DELHI
K.K. GARG, PROPERIETOR

Appellant
Vs
Respondent

C.C.E. DELHI-II

I am directed to transmit herewith a certified copy of **Final order No**. 1366 / 2008 - **SM[BR]** Dated 10.10.2008

passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
C.C.E. DELHI-II
C.R. BUILDING, NEW DELHI
2. Adv. / Consult
MR.BHASIN SETHI & ASSICIATE
401,SATYAM CINEMA BUILDING,RANJEET NAGAR,DELHI

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 Publictions (P) Ltd.. 1512-B. Bhishm Pitamah marg. Opp. ICICI Bank of Defence Colony. New - 3
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
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-
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Assistant Registrar
(SM Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K. Puram, New Delhi - 110066

COURT-IV

Date of hearing/pronouncement:3.10.2008

Central Excise Appeal No.68 of 2007

Arising out of the order in appeal No.66-CE/DLH/2006 dated 10.10.06 passed by the Commissioner, Central Excise (Appeals), New Delhi.

For Approval and Signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 27 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	yes
3	Whether their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

Appellants		Respondent
M/s K.K.Garg, proprietor	vs.	C.C.E., Delhi II

Appearance:

Shri V.R. Sethi, Advocate for the appellant
Shri K.K.Goyal, Authorized Departmental Representative (Jt.CDR) for the Revenue

Coram: Hon'ble Mr. M. Veeraiyan, Member (Technical)

Final Order No. 1366/08 SM-(BR)

Per M. Veeraiyan:

This appeal isagainst the order of the Commissioner (Appeals) No. dated10.10.06 in so far as sustaining penalty of Rs.65,504/- which was imposed by the original authority.

2. Heard both sides.

3. A case of manufacture of piston rings by affixing brand name was made against M/s Sarin Sales Corporation. According to Shri Ram Pal Sarin (statement dated 28.1.2004), plain piston rings were received from four traders which include the present appellant and such piston rings were received without ~~charges~~ challans or transport documents; they were branded with

popular brand names not belonging to M/s Sarin Sales Corporation or to the supplier of the plain piston rings; they collected 2 to 2.5% per set; accounts were maintained in coded form. It was also stated that plain piston rings were delivered by the present appellant through the employee of the appellant firm and after work was completed, the same were collected by the said employee. However, no incriminating evidence implicating the present appellant was recovered either at the premises of Sarin Sale Corporation or from the appellant's premises. M/s K.K. Garg, Proprietor denied any knowledge of Sarin Sale Corporation and consequently, any dealing with them. No statement has been taken from the employee of the appellant who is supposed to have delivered the plain piston rings and taken delivery of the branded piston rings.

4. In the light of the above without offering any comments on the merits of the case against other parties to the order in original, I do not find any reliable evidence against the present appellant to sustain the penalty. Penalty is accordingly set aside.

5. Appeal is allowed with consequential relief.

(Dictated and pronounced in the Court)

(M. Veeraiyan)
Member (Technical)

scd/