

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/2572/2006 – SM[BR] E/ CO / 236 / 2008

Date 29/10/2008

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

To :
CCE, ALLHABAD
38, CIVIL LINES, M.G. MARG, ALLAHABAD
CCE, ALLHABAD

Appellant
Vs
Respondent

M/S MOHD SATTAR & CO

I am directed to transmit herewith a certified copy of **Final order No. 1392 / 2008 - SM[BR]** dated 16.9.2008
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 MOHD SATTAR & CO

BHAISAHYA TOLA, MIRZAPUR, (U.P.)

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. 46, Saket, New Delhi 110017

7 M/s Centax Publications (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 Puniabi Bagh, New Delhi - 110026

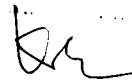
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70 (Old No. 88), Thvagaraya Road, T. Nagar, Chennai

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-1

15 Office Copy

16 Guard file


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: 16.9.2008

E/Appeal No. 2572/2006-SM(BR) +
C.O. 236/2008

(Arising out of Order-in-Appeal No. 43-CE/Alld/2006 dated 10.5.2006
passed by the Commissioner (Appeals) Central Excise, Allahabad,
U.P.).

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?
-

CCE, Allahabad

Appellant/Applicant
(Rep. by Shri A.K. Rastogi, DR for the Appellant)
Vs.

M/s Mohd. Sattar & Co.

Respondent
(None for the Respondent)

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

Final Order No. 1392/08-SM(BR)

Per: P.K. Das

After hearing the ld. DR and on perusal of the records, it is seen that the issue involved in this case is as to whether penalty is imposable less then Rs.10,000.00 under Rule 25 of Central Excise Rule, 2002. I find that the Larger Bench of the Tribunal in the case of Commissioner of Central Excise, Bhopal Vs. Rama wood Craft (P) Ltd. reported in 2008 (225) ELT 348 (Tri.-LB) held that even where a minimum penalty is prescribed, the authority has discretion to impose a penalty depending on facts and circumstances of the case. In view of that I do not find any merit on the appeal of the Revenue and it is rejected.

(Dictated and pronounced in the open court).

(P.K. Das)
Member (Judicial)

K. Gupta