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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

Appeal No. C/525 /2008 – SM[BR] Date 17/11/2008

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

To :
SINGAPORE AIRLINE LTD
9TH FLOOR, ASHOKA ESTATE, 24, BARAKHAMBA ROAD, N DELHI.

SINGAPORE AIRLINE LTD Appellant

Vs

C.C. NEW DELHI (IMPORT & GENERAL) Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1451 / 2008 - **SM[BR]** dated 6.11.2008 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. NEW DELHI (IMPORT & GENERAL)
   NEW CUSTOM HOUSE, NEAR I.G.I. AIRPORT, NEW DELHI 110037.
2. Adv. / Consult
   MR.K.R.CHAWLA & CO
   707, KAILASH BUILDING, 26, KASTURBA GANDHI MARG, N 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-1
15. Office Copy
16. 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.I

Customs Appeal No. 525 of 2008 -SM

[Arising out of Order-in-Appeal No. CC(A)/Cus/I&G/D-I/189/2008 dated 29.4.2008 passed by the Commissioner of Customs (Appeals-II), New Delhi].

Date of Hearing/Decision : 06.11.2008

For approval and signature:

Hon'ble Ms. Jyoti Balasundaram, Vice President

1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982.	:	Yes
2. Whether it should be released under Rule 27 of the 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

M/s Singapore Airlines Limited — Appellant

Vs.

CCE, New Delhi — Respondent

Appearance:

Mr. Mohinder Singh, Advocate for the appellant.
Mr. Sansar Chand, Authorized Representative for the respondent.

CORAM: Ms. Jyoti Balasundaram, Vice President

Final **Order** No. 1451/08-SM(BR)

Per Jyoti Balasundaram:

Interest of Rs. 4952/- and penalty of Rs. 9,02,000/- has been confirmed against the appellant herein who deposited foreign travel tax of Rs. 45,07,500/- together with interest of Rs. 4940/- ~~after~~ two days beyond the prescribed date for payment but filed the returns as required, within the prescribed period of thirty days.

2. I have heard both sides. Although, arguments were advanced on the absence of any provisions for imposition of penalty for delayed payment of foreign travel tax, I find that it is not necessary to consider and pronounce on such arguments. I find force in the submission that the notice has been issued beyond the statutory period of limitation of six months (relevant date according to rules is the date of filing of the return) and in this case the return was filed at the end of April 2003 while the show cause notice is dated 27.4.2004 and the notice does not allege suppression, willful mis-statement, collusion etc. Therefore, over and above the fact that interest recovery is not sustainable for the reason that the interest amount of Rs. 4940/- was already paid on 17.4.2003 together with principal foreign travel tax amount, the penalty also requires to be set aside on the ground that the notice proposing penal action is barred by limitation. I, therefore, set aside the impugned order on this count alone and allow the appeal.

[Dictated and pronounced in the open Court]

[Jyoti Balasundaram]
Vice President

[Pant]