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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. ST/153 /2008 – SM[BR]

Date 17/11/2008

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

To :
M/S SINGH ROAD LINES
G.T.ROAD, PARAO KUSHTA ASHRAM,
CHANDAOLI,VARANASI (U.P.) 221102

M/S SINGH ROAD LINES Appellant

Vs

C.C.E ALLAHABAD Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 1471 / 2008- **SM[BR]** dated 4.11.2008 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.E ALLAHABAD
   38,M.G.MARG, CIVIL LINES, ALLAHABAD
2. Adv. / Consult
   ON MERITS;-------

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 & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. II
Service Tax Appeal No. 153 of 2008 (SM)

[Arising out of the Order-in-Appeal No. 76/Cus/ST/ALL/07 dated 20/12/2007 passed by The Commissioner of Customs & Central Excise & Service Tax (Appeals), Allahabad.]

For Approval and signature :
Hon'ble Shri Rakesh Kumar, Member (Technical)

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 would 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 Department Authorities?	:

M/s Singh Road Lines — Appellant

Versus

CCE, Allahabad — Respondent

Appearance

On merits – for the appellant.

Shri S.K. Bhaskar, Authorized Representative (DR) – for the Respondent.

CORAM: **Hon'ble Sh. Rakesh Kumar, Member (Technical)**

DATE OF HEARING : 04/11/2008.

Final Order No. 1471/08-SM(BR) Dated : 4-11-08

Per. Rakesh Kumar :-

The service provided by goods transport agency became taxable w.e.f. 01/01/05. Since, the appellant was providing the service they took the registration. However, during period from January 2005 to December 2005 neither any service tax was paid nor any ST-3 return was filed. The appellant paid the service tax ~~in~~ the January 2005 to December 2005 period alongwith interest only in January 2006 and thereafter filed the ST-3 returns for January – March 2005 period and April 2005 – September 2005 period. The Assistant Commissioner vide order dated 22/08/05 imposed penalty of Rs. 1,000/- under Section 77 for belated filing of ST-3 returns ~~non-filing the ST-3 returns during April 2005 – October 2005~~ and beside this also imposed penalty of Rs. 100/- per day under Section 76 for the period of default in payment of service tax. The CCE (Appeals) vide the impugned order upheld the Assistant Commissioner's order.

2. The appellant have challenged the imposition of penalty under Section 76 and 77 of the Finance Act, In the present appeal and vide their letter dated 20th December 2007 have requested for decision of their appeal on merits as they would not be able to attend the hearing. Accordingly, this appeal has been taken up for decision on merit though the appellant was not present.

3. The learned Departmental Representative pleaded that since the service tax for January 2005 to March 2005 and thereafter for period from April 2005 to December 2005 was not paid by the due date and admittedly no service tax returns filed for January 2005 to March 2005 period and April 2005 to September 2005 period which were due on 25/04/05 and 25/10/05 respectively and since no reason has been given by the appellant for non-payment of service tax by the due date penalty has been rightly imposed by the Assistant Commissioner and rightly upheld by the CCE (Appeals).

4. I have carefully gone through the record of this case and the submissions made by the learned departmental representative. Though the appellant had obtained service tax

registration, admittedly the service tax for January 2005 to December 2005 was not paid by the due date, and the same was paid only in January 2006. No reason has been given by the appellant for non-payment of service tax by the due date during January – December 2005 period and similarly no reason has been given as to why ST-3 returns for the period ending 31st March 2005 and the period ending 30th September 2005 which were due on 25/04/05 and 25/10/05 respectively were not filed. In view of this, I find no infirmity in the impugned order. The appeal is dismissed.

(Operative part of the order pronounced in the open court.)

(Rakesh Kumar)
Member (Technical)

PK