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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. E/479 /2007 – SM[BR] Date 17/11/2008

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

To :
C.C.E. ALLAHABAD
38,M.G. MARG, CIVIL LINES, ALLAHABAD

C.C.E. ALLAHABAD Appellant

Vs

M/S SAH MACHINE TOOLS (P) LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1472 / 2008- **SM[BR]** dated 7.11.2008 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 SAH MACHINE TOOLS (P) LTD.

SHIVDASPUR, LAHARTATA, VARANASI, (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 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. IV

Excise Appeal No. 479 of 2007 (SM)

[Arising out of the Order-in-Appeal No. 129-CE/ALLD/2006 dated 24/11/2006 passed by The Commissioner (Appeals), Central Excise, Allahabad (U.P.).]

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?	:

CCE, Allahabad — Appellant

Versus

M/s Sah Machine Tools (P) Ltd. — Respondent

Appearance

Shri S.K. Pandey, Authorized Representative (DR) – for the appellant.

None – for the Respondent.

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

DATE OF HEARING : 07/11/2008.

Final Order No. 1472/08-SM (BR) Dated : 7-11-08

Per. Rakesh Kumar :-

This is revenue's appeal for enhancement of penalty under Rule 25 (1) of the Central Excise Rules. The respondent is engaged in manufacture of excisable goods and was availing the facility of fortnightly payment of duty and he defaulted on three occasions. Though the duty in respect of which the default has taken place was subsequently alongwith interest, the revenue by issuing show cause notice initiating proceedings for imposition of penalty under Rule 25 (1). The Assistant Commissioner vide order-in-original dated 19/07/06 imposed penalty of Rs. 10,000/-. The Commissioner (Appeals) vide the impugned order dated 19/07/06, however, reduced the penalty to Rs. 5,000/-. The revenue has come in appeal against this order on the ground that the penalty under Rule 25 (1) of the Central Excise Rules cannot be less than Rs. 10,000/- as the penalty imposable under this Rule is "not exceeding the duty on excisable goods in respect of which any contravention of the nature referred to in clauses a, b and c has been committed or Rs. 10,000/- whichever is more".

2. The respondent vide letter dated 20/10/08 requested for decision of this matter on merit.

3. Heard the learned Departmental Representative. The Commissioner (Appeals)'s order reducing the penalty to Rs. 5,000/- which is below the minimum penalty prescribed under Rule 25 (1) is prima facie incorrect. The penalty on the respondent is raised to Rs. 10,000/-. The impugned order stands modified, as above. The Revenue's appeal is allowed.

(Dictated and pronounced in open court.)

(Rakesh Kumar)
Member (Technical)

PK