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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/3228/2006-SM[BR] Date 26/06/2008

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

To :
C.C.E.KANPUR
117/7,SARVODAYA NAGAR,KANPUR.

C.C.E.KANPUR Appellant
Vs
M/S S.R.MITTAL PAPER MILLS LTD Respondent

I am directed to transmit herewith a certified copy of **Final order** No. 999 /2008 -SM[BR] dated 15.5.2008

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 S.R.MITTAL PAPER MILLS LTD
MAINPURI ROAD,SHIKOHABAD,DISTT-FIROZABAD
2. Adv. / Consult SHRI RAJENDRA PRASAD PAL ADV.
29/207 F SANJAY PLASE, AGRA [U.P]

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 Delhi -
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 60017
13. Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
14. Office Copy
15. 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. III

Excise Appeal No. 3228 of 2006 – SM (BR)

[Arising out of the Order-in-Appeal No. 231/CE/APPL/KNP/ 2006 dated 13/06/2006 passed by The Commissioner (Appeals), Customs & Central Excise, Kanpur.]

For Approval and signature :
Hon'ble Mr. P.K. Das, Member (Judicial)

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, Kanpur — Appellant

Versus

M/s S.R. Mittal Paper Mills Ltd. — Respondent

Appearance

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

Shri Rajendra Prasad Pal, Advocate – for the Respondent.

CORAM : **Hon'ble Shri P.K. Das, Member (Judicial)**

DATE OF HEARING : 15/05/2008.

Final Order No. 999/08-SM(BR) Dated : 15.5.08

Per. P.K. Das :-

Heard both sides and perused the records. Adjudicating authority imposed penalty of Rs. 15,000.00 for failure to discharge the duty liability under Rule 8 of Central Excise Rules, 2002 in four occasions. Revenue filed appeal before the Commissioner (Appeals) for enhancement of penalty, which was rejected. Hence, the Revenue filed this appeal before the Tribunal.

2. The learned DR submits that the Respondent failed to discharge duty liability under Rule 8 of Central Excise Rules, 2002 and therefore the adjudicating authority should have imposed minimum penalty of Rs. 10,000.00 under Rule 25 of the Rules on four occasions separately.

3. The learned advocate reiterates the findings of the Commissioner (Appeals). After hearing both the sides and on

perusal of the records, I find that the Larger Bench of the Tribunal in the case of **CCE, Bhopal vs. Rama Wood Craft Pvt. Ltd.** reported in **2008 (85) R.L.T. 827 (Tribunal – Larger Bench)** held that there is no minimum penalty prescribed under Rule 25 of the Rules. I also noted that the Tribunal in the case of **Condor Power Products P. Ltd. vs. CCE, Faridabad** reported in **2007 (210) E.L.T. 137 (Tri. – Del.)** held that penalty under Rule 25 of the Rules is not warranted for discharging duty liability under Rule 8 of the Rules. In view of the above, I do not find any merit in the appeal of the revenue. Accordingly, the appeal filed by the revenue is rejected.

(Dictated and pronounced in open court)

(P.K. Das)
Member (Judicial)

PK