

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/2664/2006-SM [BR]

Date 22/07/2008

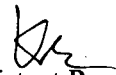
Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
C.C.E. MEERUT II
OPP. SAHEED PARK (NEAR ASHOK KI LAT) DELHI
ROAD, MEERUT (UP)
C.C.E. MEERUT II

Appellant
Vs
Respondent

M/S KESAR ENTERPRISES LTD.

I am directed to transmit herewith a certified copy of Final order No. 1069 /2008 –SM[BR]dated 1.7.2008
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 KESAR ENTERPRISES LTD.

BAHERI, DISTT. BAREILLY (U.P.)

2. Adv. / Consult SHRI KAPIL VIASHY.C.A.

B-51 BUTLER PLAZA, CIVIL LINES,, BAREILLY [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 Publications (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)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K Puram, New Delhi-110066

COURT-IV

Date of hearing: 01.7.2008

Central Excise Appeal No. 2664/2006-SM(BR)

[Arising out of the order in Appeal No. 108-CE/MRT-II/2006 dated 12.5.2006 passed by the Commissioner (Appeals) Customs & Central Excise, Meerut-II]

For Approval and Signature:

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

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 27 of 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?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

Appellants

Respondent

C.C.E., Meerut-II

vs.

M/s Kesar Enterprises Ltd.

Appearance:

Shri A.K. Rastogi, DR for the Appellant

Shri Kapil Viash, Advocate for the Respondent

Final Order No. 1069/08-SM(BR)

Per: P.K. Das:

Adjudication authority imposed penalty of Rs. 5,000.00 under Rule 13 of Cenvat Credit Rule 2002. Revenue filed appeal before the Commissioner (Appeals) for imposing of minimum penalty of Rs. 10,000.00 under ~~of~~ the said Rule, which was rejected. Hence, the Revenue filed this appeal before the Tribunal.

2. After Hearing both the sides and ^{on} perusal of records ~~and~~ it is seen that the Larger Bench of the Tribunal in this case of Commissioner of Central Excise, Bhopal Vs. Rama Wood Craft (P) Ltd. 2008 (225) ELT 348 (Tri-LB) held that ~~that~~ no minimum penalty is prescribed under the Rules. The authority has to decide to impose ^{lower} ~~under~~ amount of penalty depending upon the facts and circumstances of the case. In view the decision of the Larger Bench, I do not find any merits in the appeal. Accordingly appeal filed by the Revenue is rejected.

Dictated and pronounced in the open court.

(P.K. Das)
Member (Judicial)

K. Gupta