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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/1057/2008 E/STAY/ 1031 /2008 –SM[BR] Date 23/07/2008

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

To :
U.P.STATE SUGAR & CANE DEVELOPMENT
CORPORATION LTD.
PIPRAICH, DISTT.GORAKHPUR(UTTAR PRADESH)
273152

U.P.STATE SUGAR & CANE DEVELOPMENT
CORPORATION LTD. Appellant

Vs

C.C.E ALLAHABAD Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 1074 /2008 –SM[BR] &S/ 424 /2008 dated 3.7.2008

passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
   C.C.E ALLAHABAD
   38,M.G.MARG, CIVIL LINES, ALLAHABAD
2. Adv. / Consult
   MR.BIPIN GARG
   B-1/1289,A-VASANT KUNJ, NEW 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 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: 03.7.2008

Stay Application No. E/S/1031/08-SM(BR)
Central Excise Appeal No. E/1057/of 2008-SM(BR)

M/s U.P. State Sugar Cane Dev. Corpn. Ltd. Appellants/Applicants

vs.

C.C.E., Allahabad Respondent

Appearance:

Shri A. Gupta, Advocate for the appellants/applicants and
Shri S. Gautam, Authorized Departmental Representative (DR) for the Revenue

Coram: Hon'ble Mr P.K. Das, Member (Judicial)
Stay order No. 424/08-SM(BR)
Final Order No. 1074/08-SM(BR)

Per: P.K. Das

After hearing both the sides and on perusal of records, I find that the issue involved is in narrow campus and, therefore, after granting stay, the appeal is being taken up for hearing.

2. The Adjudicating Authority confirmed the demand of duty and imposed the penalty of Rs. 1000.00 under Rule 25 (3) of Central Excise Rules 2002. The Revenue filed the appeal before the Commissioner (Appeals) for imposition of minimum penalty of Rs.10,000.00 under Rule 25 of the Rules. Commissioner (Appeal) modified the Adjudicating Order in so far as the penalty was imposed to Rs. 10,000.00. Appellant filed this appeal against the order of Commissioner (Appeals).

3. I find that the Larger Bench of the Tribunal in the case of Commissioner of Central Excise Bhopal Vs. Rama Wood Craft (P) Ltd. 2008 (85) RLT 827 (CESTAT-LB) held that the amount mentioned in the Rules is maximum and not the minimum. It has been also held that penalty can be lowered depending on relevant factors in a case. In view of the decision of the Larger Bench, I find that the amount of penalty enhanced to Rs. 10,000.00 by Commissioner (Appeals) is not justified.

Accordingly, the order of Commissioner (Appeals) is set aside and the Adjudication order is ~~rejected~~ to restored. The ~~order~~ appeal is allowed.

(Dictated and pronounced in the open court)

(P.K. Das)
Member (Judicial)

K. Gupta