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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/452 /2007-SM[BR] Date 03/09/2008

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

To :
M/S H.P.STATE FOREST CORPORATIN LTD
MM KHANNA, & COM. 36/3, MIDDLE BAZAR,
SHIMLA-1 (HP)
M/S H.P.STATE FOREST CORPORATIN LTD Appellant
Vs
C.C.E. CHANDIGARH Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 1235 /2008 –SM[BR] dated 14.7.2008 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. CHANDIGARH
   C.R. BUILDING, PLOT NO. 19, SECTOR 17-C, CHANDIGARH 160017
2. Adv. / Consult
   MR.GOVERDHAN SHARMA, CONSULTANT, M.M. KHANNA & CO.
   36/3, KHANNA SHOPPING COMPLEX, MIDDLE BAZAR, SHIMLA -171001
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. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15
15. Office Copy
16. Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

ST/Appeal No.452/07-SM

(Arising out of order in appeal No. 62/CE/Chd/07 dated 21.3.07 passed by the Commissioner of Central Excise (Appeals), Chandigarh)

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 should 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 Departmental authorities?

N

M/s HP State Forest Corp Ltd — Appellant
(Rep. by Shri G. Sharma, Advocate)

Vs

CCE, Chandigarh — Respondent
(Rep. by Shri Rajmal, DR)

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

Date of Hearing:14.7.08

Final Order No. 1235 /2008-SM(BR)

Per P.K. Das:

The relevant facts of the case, in brief, are that the appellants were engaged in extraction, conversion and sale of timber and manufacture of Rosin and availing facilities from 'Goods Transport Agency' for its business activities. The Central Excise officers visited the appellants business premises and detected that the appellants had not paid service tax on GTA services during the period 1.1.2005 to 31.3.2006. The appellants deposited the entire amount of tax of Rs. 16,08,063/- on 5.4.2006 and also obtained registration. The Adjudicating Authority confirmed the demand of tax and also appropriated the said amount as deposited by them. He also imposed penalty of equal amount under Section 78, Rs.1,000/- under Section 76 of the Act alongwith interest under Section 75 of the Act. The Commissioner (Appeals) modified Adjudication order in as much as, penalty was reduced to Rs. 1,50,000/- under Section 78 of the Act.

2. After hearing both the sides and on perusal of the record, I find that Section 78 of the Act provides penalty for suppressing value of taxable service. The Commissioner (Appeals) observed that the delay in deposit of service tax does not appear to be intentional or deliberate, in the case of appellants, who are a Government of Himachal Pradesh undertaking. It is noted that the appellants deposited the service tax before issue of show cause notice. It is also noticed that the appellant is a State Government undertaking and they had no knowledge for levy of tax. The Revenue failed to produce any material that the appellants failed to pay the tax by reason of fraud, collusion, etc. So, in the facts and circumstances of the case, Section 78 of the Act cannot be invoked. Accordingly, imposition of penalty under

Section 78 of the Finance Act, 1994 is set aside. The Appeal is allowed with consequential relief.

(Order dictated and pronounced in the open Court).

(P.K. Das)
Member(Judicial)

MPS*