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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/822 /2007 - SM Date 26/11/2008

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

To :
C.C.E, LUDHIANA
CENTRAL EXCISE HOUSE, 'F' BLOCK, RISHI NAGAR,
LUDHIANA. 141001

C.C.E, LUDHIANA Appellant
Vs
FOREX FASTNERS PVT. LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1525 / 2008- **SM[BR]** dated 24.10.2008 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
FOREX FASTNERS PVT. LTD.
SAHNRWAL TO DEHLON ROAD, VILLAGE- DHARUR, P.O. SAHNEWAL, LUDHIANA (P.B)
2. Adv. / Consult SHRI RUPENDRA SINGH ADV.
DSK LEGAL, 46, ARADHNA, R.K. PURAM
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 - 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 AND SERVICE TAX APPELLATE TRIBUNAL,
R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH
NEW DELHI, COURT NO.I

Excise Appeal No. 812 of 2007-SM (Br.)

[Arising out of Order-in-Appeal No. 133/CE/LDH/2006 dated 29.12.2006 passed by the Commissioner (Appeals), Central Excise, Jalandhar]

Date of Hearing/Decision : 24.10.2008

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.	:	N.
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?	:	Yes.

CCE, Ludhiana — Appellant

Vs.

M/s Forex Fastners Pvt. Ltd., — Respondent

Appearance:

Mr. S.K. Panda, DR for the Appellant
Mr. Rupendra Singh, Advocate for the Respondent

CORAM: Mr. P.K. Das, Member (Judicial)

Final **Order** No. 1525/08-SM (BR)

Per P.K. Das:

The relevant facts of the case in brief, are that the Respondents is a small scale unit, which had been facing acute financial hardship due to blockage of the funds by the customers and, therefore, there was delay in payment of duty under Rule 8 of the Central Excise Rules, 2002. The payment of duty for the month of February 2006 was paid on 12.4.2006 with interest. The Assistant Commissioner of Central Excise by order dated 12.12.2006 ordered to forfeit the facility provided under Rule 8(1) of the Rules for two months from the date of communication of the order. The Commissioner (Appeals) reduced the period to 12 days. Hence, the Revenue filed this appeal. The main contention of the learned Joint CDR is that Rule 8 (3A) of the Rules relating to forfeit of the facility to pay duty on the monthly basis are mandatory in nature. He submits that Commissioner (Appeals) has no power to reduce the period beyond this statutory limit. He also submits that Respondent misled the Department by declaring the date of deposit on 6.2.2006, which was later on found to be 12.4.2006. The learned Advocate on behalf of the Respondent submits that the Tribunal in the case of Calcom Vision Ltd. vs. CCE, Meerut-I reported in 2001 (142) ELT 383 (Tri-Delhi) held that forfeiture of maximum period of two months is not mandatory. He also relied upon the decision of the Hon'ble Gujarat High Court reported in 2002 (52) ELT 755.

2. After hearing both the sides and on perusal of the records, I find that the main contention of the learned Joint CDR that the provisions of forfeiture facility under ~~to~~ Rule 8 is mandatory. After going through the decision of the Hon'ble Gujarat High Court and the Tribunal in the above cases, I find that the forfeiture facility of two months under rule 8 of the Rules is maximum limit. Therefore, the contention of the learned CDR has no merit. I find that the Respondent is a SSI unit and due to financial crisis, there was a delay in payment of duty, which was paid with interest.

3. After going through the facts & circumstances of the case, the Commissioner (Appeals) reduced the period of forfeiture. Therefore, I do not find any reason to interfere the order of the Commissioner (Appeals). Accordingly, the appeal filed by the Revenue is rejected.

[Dictated and pronounced in the open Court]

[P.K. Das]
Member (Judicial)

Ckp