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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/1451/2006-SM[BR] Date 23/04/2008

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

To :
C.C.E. JAIPUR I
N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME,
JAIPUR 302005.

C.C.E. JAIPUR I Appellant

Vs

M/S JAI DRINKS P LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 647 /2008 –SM[BR] dated 16.4.2008 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 JAI DRINKS P LTD.
   J L N MARG,JAIPUR(RAJ)
2. Adv. / Consult SHRI HEMANT BAJAJ ADV.
   A-5, BASMENT LAJPAT NAGAR-III NEW DELHI-24

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 AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. I

Excise Appeal No. 1451 of 2006-SM

[Arising out of Order-in-Appeal No. 17(MPM)/CE/JPR I/ 2006 dated 13.1.2006 passed by Commissioner of Central Excise, Jaipur]

For approval and signature:

Hon'ble Mr. Justice S.N. Jha, President

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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? : No
3. Whether Their Lordships wish to see the fair copy of the Order? :
4. Whether Order is to be circulated to the Departmental authorities? :

Commissioner of Central Excise
Jaipur I — Appellants

Vs.

M/s. Jai Drinks P.Ltd. — Respondents

Appearance: Mr. B.S. Suhag, DR for the Appellant
Mr. Hemant Bajaj, Advocate for the Respondent

Date of decision : 16.4.2008

Final **ORDER NO. 647/08-SM(BR)**

Per Justice S.N. Jha (for the Bench):

When this appeal was taken up, a preliminary objection was taken on behalf of the assessee-respondents to the effect that having regard to duty involved in this appeal being Rs.13,604/-, the appeal may not be entertained by the Tribunal in view of second proviso to Section 35 B of the Central Excise Act, 1944.

2. Section 35 B of the Act provides for appeals to the Appellate Tribunal. Second proviso thereto inter alia lays down that the Tribunal may, in its discretion refuse to admit an appeal in respect of orders referred to in clauses (b), (c), or (d) where the duty involved does not exceed fifty thousand rupees.

3. On behalf of the Revenue, it was submitted by the learned DR that dispute involved is of recurring nature and therefore, notwithstanding the duty involved, the appeal may be entertained and the issue decided. Learned DR however, was not able to point out that the dispute/issue involved in this appeal has arisen ~~afresh~~ again at any time during the pendency of this appeal so that the dispute /issue could be said to be of recurring nature. In any view, if the appeal is dismissed on the above ground, without going into the merits of the case, the dispute/issue whenever

raised in an appropriate case, can be decided by the Tribunal and the order in the present case will not stand in the way.

4. After hearing the parties I am satisfied that having regard to the duty involved, it is not a fit case for entertaining the appeal.

The appeal is accordingly dismissed in limine.

(Dictated in the open Court)

(Justice S.N. Jha)
President

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