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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/3442/2006-SM[BR] Date 05/05/2008

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

To :
M/S ACHAL PAPER INDUSTRIES LTD.
VILLAGE-DHINGI,MALERKOTLA ROAD, NABHA(PB)

M/S ACHAL PAPER INDUSTRIES LTD. Appellant
Vs
C.C.E.CHANDIGARH Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 673 /2008M –SM[BR] dated 26.3.2008 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.CHANDIGARH
   PLOT NO 19,SECTOR 17-C,CHANDIGARH.
2. Adv. / Consult
   MR.JATINDER MOHAN, COUNSLT.
   4A, STREET NO. 2, GHUMAN NAGAR, OPP. GEETA SERVICE STATION SIRHIND ROAD, PATIALA-147004
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 & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R.K.Puram, New Delhi-110066.
Principal Bench, New Delhi.
E/3442/06-SM

[Arising out of Order-in-Appeal No.627/CE/CHD/06 dt.18.7.06 passed by the Commissioner(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 would 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 : Department Authorities:

No

M/s. Achal Paper Industries Ltd. — Appellant

Versus

CCE, Chandigarh — Respondent

Appearance

Sh. Jitender Mohan, Consultant For Appellant

Sh. Rajmal, Authorised Representative(DR) For Respondent

Coram: Hon'ble Mr. P.K.DAS, MEMBER JUDICIAL

Final Date of Hearing 26.3.08
Order No. 673/08-SM(BR)

Per P.K.Das:

Heard both sides and perused the records.

2. The adjudicating authority imposed penalty under Rule 25 of the Central Excise Rules,2002 for contravention the provisions of Rule 8(3) of the said Rules. The Commissioner(Appeals) had reduced the amount of penalty.

3. Ld. Advocate submits that there is a delay of discharging the monthly payment of duty under Rule 8 of the said Rules due to acute financial crises. He further submits that the appellant deposited the duty with interest before pointed by the Revenue.

4. I find that the Tribunal in the case of Condor Power Products P. Ltd. vs CCE, Faridabad reported in 2007(210)ELT.137(Tri-Del.) held that delay in payment of duty due to financial crises under Rule 8 of the said rules, Penalty cannot be imposed under Rule 25 of the said Rules. It has been held that inference of evasion of duty cannot be drawn from mere delay in making the payment of tax in respect of transactions already disclosed by filing returns in time.

5. In view of the above decision, I find that in the facts and circumstances of the case, penalty under Rule 25 of the said Rules is not warranted. Accordingly, the impugned order in so far as imposition of penalty under Rule 25 of Central Excise Rules,2002 is set aside. Appeal is allowed with consequential relief.

Order dictated in the open Court.

(P.K.Das)
Member Judicial

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