

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/748 /2007-SM[BR]

Date 12/05/2008

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

To :
C.C.E. CHANDIGARH
C.R. BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH 160017
C.C.E. CHANDIGARH

M/S S.S. ELECTRONICS

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 729 /2008-SM[BR] dated 4.4.2008
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

M/S S.S. ELECTRONICS

COLLAGE ROAD, KANGRA, DISTT. KANGRA, H.P.

2. Adv. / Consult SHRI GURJEET SINGH

J-129-130, ARAVALI KUNJ IST FLOOR, SECT OR-13,
ROHINI NEW DELHI- 100085

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 Publications (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
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No. 748/07

(Arising out of order in appeal No.430/CE/Chd/07 dated 27.9.07 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?

CCE, Chandigarh

Appellant
(Rep. by Shri S.L. Meena, DR)

Vs

M/s S.S. Electronics

Respondent
(Rep. by Shri Gurjeet Singh, C.A.)

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

Date of Hearing: 4.4.08

Final Order No.

729

/2008-SM(BR)

Per P.K. Das:

Heard both sides and perused the records.

2. The Revenue filed this appeal against the order of the Commissioner (Appeals) whereby penalty under Section 76 of the Finance Act was set aside.

3. On a perusal of the impugned order, I find that the Adjudicating Authority imposed penalty under Section 75-A, 76 and 77 of the Finance Act, 1994. The Commissioner (Appeals) modified the adjudication order in so far as penalty under Section 76 of the Act was set aside on the ground that the respondent deposited the tax before issue of show cause notice. I find that penalty under Section 76 of the Act cannot be set aside merely on the ground that the assessee deposited the tax before issue of show cause notice.

4. The learned Counsel submits that the respondents business is located in the remote area of Himachal Pradesh and they have deposited the tax as soon as it came to their knowledge.

5. I find that the Commissioner (Appeals) dropped the penal provisions without considering the facts and circumstances of the case in proper manner. So, the impugned order so far as penalty under Section 76 of the Act is concerned, is set aside and the matter is remanded back to the Commissioner (Appeals) to consider the facts of case. Needless to say, the Commissioner (Appeals) shall give proper opportunity of hearing to the respondents before taking the decision. The appeal filed by the Revenue is allowed by way of remand.

(Order dictated and pronounced in the open Court).

MPS*

(P.K. Das)
Member(Judicial)