

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/3306 -3307 /2006 -SM[BR]

Date 13/05/2008

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

To :

(1-2) M/S AERO CLUB(UNIT-II)
18TH MILESTONE, VILLAGE-NATHUPURA,
G.T.ROAD, SONEPAT(HR)
M/S AERO CLUB(UNIT-II)

Appellant

Vs

Respondent

C.C.E.ROHTAK

I am directed to transmit herewith a certified copy of Final order No. 754 -755 /2008 -SM[BR] dated 19.3.2008

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.ROHTAK

17-P, SECTOR -I, ROHTAK.

2. Adv. / Consult SHRI JAGAN NATH REPR.
M/S APPELLANTS;-----

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

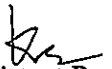
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026

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)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH
NEW DELHI, COURT NO. III**

Excise Appeals No.3306 & 3307 of 2006-SM (BR)

[Arising out of Order-in-Appeal No.201/NS/RTK/2006 dated 12.7.2006 and Order-in-Appeal No.217/NS/RTK/2006 dated 21.7.2006 passed by the Commissioner of Central Excise (Appeals), Delhi-III]

Date of Hearing/ Decision:19.3.2008

For approval and signature:

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

1. Whether Press Reporters may be allowed to see 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?	:	

M/s. Aero Club

...Appellants

[Rep. by Shri Jagan Nath, Representative]

Vs.

CCE, Rohtak

....Respondent

[Rep. by Mr. S.L. Meena, DR and Shri B.S. Suhag, Authorized Departmental Representative (DR)]

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

Final Order No. 754-55/02-SM(BR)
...../Dated:19.3.2008

Per P.K. Das:

Heard both sides and perused the records.

2. The appellants filed these appeals against imposition of penalty under Rule 25 of Central Excise Rules, 2002 for delay in discharging

fortnightly payment of duty under Rule 8 of the said Rules. I find that the Tribunal in the case of Condor Power Products Pvt. Ltd. Vs. CCE, Faridabad reported in 2007 (210) ELT 137 (T-D) held that the appellant disclosed the transactions by filing returns and ^{was clearly} to ~~new~~ dispute, no intention to evade payment of duty. Therefore, penalty under Rule 25 of the Central Excise Rules, 2002 is not imposable. In view of the decision of the Tribunal, I set aside the penalty. The impugned orders are set aside and the appeals are allowed.

Order dictated & pronounced in open court on 19.3.2008.

(P.K. Das)
Member (Judicial)

Ckp.