

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
CUSTOMS APPEAL BRANCH

Appeal No. ST/61 /2007 - CU[DB]

Date 11/02/2009

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

To :
M/S RAJ KUMAR ORA
C/O TENT HOUSE, MORAK, DISTT- KOTA.
M/S RAJ KUMAR ORA

C.C.E.JAIPUR

Appellant

Vs
Respondent

I am directed to transmit herewith a certified copy of **Final order No. ST/71/09 CU[DB]** dated ~~ST/71/09~~ **3/2/09** passed by the Tribunal under Section 129, (B) of the Customs Act, 1962 & Financial Act 1994 relating to Service Tax


Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent

C.C.E.JAIPUR

NCRB, STATUE CIRCLE, C-SCHEME, JAIPUR.

2. Adv. / Consult

MR.PANKAJ MALIK

CHARTERED ACCOUNTANTS 207-208, SHREE GOPAL TOWER, KRISHNA MARG, C-SCHEME, JAIPUR-

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 - 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 Kuni, New Delhi - 110070

14 Easy Service Tax Online Dot Com Pvt.Ltd.407A.Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15

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Assistant Registrar
(Customs Appeal Branch)

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi - 110 066.
Principal Bench, New Delhi**

COURT NO. II

Service Tax Appeal No. 61 of 2007

M/s Raj Kumar Ora

Appellant

Versus

CCE, Jaipur

Respondent

Appearance

Shri Bipin Garg, Advocate - for the appellant.

Shri A.K. Madan, Authorized Representative (SDR) - for the Respondent.

**CORAM : Hon'ble Shri D.N. Panda, Judicial Member
Hon'ble Shri Rakesh Kumar, Technical Member**

DATE OF HEARING : 03/02/2009.

Final Order No. 57/71/09 Dated : _____

ORDER

Per. D.N. Panda :-

Learned Counsel Shri Bipin Garg, only contests the penalty of Rs. 66,370/- and Rs. 500/- imposed under Section 76 and 75A of the Finance Act, 1994. He submits that there was no deliberate failure nor there was breach of law, if any, intend to cause prejudice to Revenue or evade the payment of tax. Therefore, the Appellant has paid the taxes that was due. He submits that because father of the Appellant was suffering from cancer, the Appellant had no means to make payment of their tax due, *Accordingly* there was delay for

deposit of taxes.

He submits that the causes stated by him is reasonable for consideration and the penalty may be waived accordingly.

2. Learned DR agrees with the factual position that the taxes have been paid by the appellant. We did not find any *contumacious conduct* of the appellant to bring to the appellant to the charges, *But we are handicapped to* grant him relief for the penalty under Section 75A of the Finance Act, 1994 which is not covered by the Section 80 of the Finance Act, 1994. *A* Appreciating that the appellant is a small businessman and his father was suffering from cancer which caused him financial hardship, we waive the penalty of Rs. 66,370/- imposed under Section 76 finding the *cause* ~~accused~~ to be reasonable attracting Section 80 of the Finance Act, 1994. *B* But we confirm the penalty of Rs. 500/- for no appealable reasons coming before us. Accordingly, the appeal is partly allowed.

(Dictated and pronounced in open court)

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

PK