

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/3224/2006,3495/2006 – SM[BR] E/ 336/2007 E/ 504 / 2007-SM[BR]

Date 14/01/2009

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

To :

C.C.E.KANPUR

117/7,SARVODAYA NAGAR,KANPUR.

C.C.E.KANPUR

M/S GANPATI INDUSTRIES LTD

Appellant

Vs

Respondent

I am directed to transmit herewith a certified copy of **Final order No. 48 – 51 /2009- SM[BR]** dated 9.1.2009
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

Copy to :

1. Respondent

M/S GANPATI INDUSTRIES LTD
INDUSTRIAL AREA,ORAI.

2. M/S GANPATI INDUSTRIES LTD

REGD OFFICE AT 111A/400, ASHOK NAGAR, KANPUR(UP)

2. Adv. / Consult SHRI L.P.ASTHANA ADV.

R-163, SECOND FLOOR.

G,K.PART-I NEW DELHI-48.

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), Thvagarava 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-1

15 Office Copy

16 Guard file

2. M/S SUNRISE PACKAGING,

123/ 356, FAZALGANJ, KANPUR

4. M/S SHRINIVAS SYNTHETIC PACKERS [P] LTD,

7-B, INDUSTRIAL AREA, MALANPUR, DISTT.BHIND [M.P]

Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal Nos.3224 & 3495/2006 -SM(Br)
E/Appeal Nos.336 /2007 -SM(Br)
E/Appeal Nos. 504/2007 -SM(Br)

(Arising out of order in appeal No.228-229/CE/Apl/KNP/06 dated 16.6.2006 and No.570/CE/Apl/KNP/06 dated 16.11.2006 and No.IND.1/364/2006 dated 7.12.2006 passed by the Commissioner of Central Excise (Appeals), Kanpur, Indore)

1.CCE, Kanpur
2.CCE, Indore

Appellant
(Rep. by Shri S.K. Panda, Jt.CDR)

Vs

1.M/s Ganpati Industries Ltd Respondent
2.M/s Sunrise Packaging (Rep. by Shri L.P. Asthana, Advocate)
3.M/s Shrinivas Synthetic Packers

Coram: Hon'ble Mr.D.N. Panda, Judicial Member

Date of Hearing: 2.1.09

Final Order No. 48 to 51

/2009-10 (BR)

Per D.N. Panda:

None is present for the respondents in all these three appeals of Revenue. The learned Jt CDR submits that in view of the recent decision of the Apex Court in the case of Dharmendra Textiles Processors reported in 2008 TIOL 192 - CX.LB, the penalty shall be imposable in the event ~~the~~ essential gradients of Section 11AC are present. The learned Appellate Authority below is required to give a fresh look into the matter in view of law declared by the Hon'ble Supreme Court.

2. Heard the Revenue and in view of law declared by the Apex Court in Dharmendra Textile Processors as well as to bring on record whether ingredients of Section 11AC are present, the learned Appellate Authority is directed to re-examine these appeals in the light of Apex Court decision.

3. In view of aforesaid observation, all these appeals are remanded to the learned Appellate Authority setting aside the impugned order.

(Order dictated and pronounced in the open Court).

(D.N. Panda)
Judicial Member

MPS*