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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/2274/2006 – SM[BR] Date 19/05/2009

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

To :
CCE,KANPUR

117/7,SARVODYA NAGAR KANPUR

CCE,KANPUR Appellant

Vs

M/S G.R.CORPORATION Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 388 / 2009 –SM[BR] dated 27.4.2009

passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent

M/S G.R.CORPORATION

18,C-2,POKHARPUR KANPUR
2. Adv. / Consult

NONE;------------------

3 S.D.R
~~4 J.C.D.R.~~
5 Bar association, CESTAT, New Delhi
6 Director Publications, Customs, Excise. I.P. Estate, New Delhi
7 M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
8 Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9 Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10 M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)
11 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
12 Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
13 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
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
(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/2274/06-SM

[Arising out of Order-in-Appeal No.152-CE/Appl./KNP/06 dt.26.4.06 passed by the Commissioner(Appeals), Kanpur)

For approval and signature:

Hon'ble Mr. RAKESH KUMAR, MEMBER (TECHNICAL)

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:

CCE, Kanpur — Appellant

Versus

M/s. G.R.Corpn. — Respondent

Appearance

Sh. S.Gautam, Authorised Departmental Representative, DR for Appellant
None for Respondent

Coram: Hon'ble Mr. RAKESH KUMAR, MEMBER (TECHNICAL)

Date of decision: 27.4.09
Final Order No. 388/09-SM(BR)

Per Rakesh Kumar:

This is Revenue's appeal against order-in-appeal No.152-CE/Appl./KNP/2006 dt.26.4.06 passed by Commissioner(Appeals) by which penalty imposed on the respondent for late submission of ER-I monthly return was reduced from Rs.10,000/- to Rs.2,000/-. The Revenue seeks the enhancement of penalty to Rs.2,000/-.

2. None appeared for the respondent.

2.1 Heard Ld. DR who reiterated the grounds of appeal and pleaded that in this case, the penalty should be enhanced to Rs.10,000/-.

3. I have carefully considered the submissions of Ld. DR and perused the records. In this case the Asstt. Commissioner vide order-in-original dt.28.2.05 had imposed penalty of Rs.10,000/- on the respondent under Rule 25/27 of Central Excise Rules,1944 for late submission of the ER-I return, the delay being for six days. For late submission of ER-I return, the penalty can be imposed under Rule 27 only wherein the maximum penalty prescribed is Rs.5,000/-. Therefore, looking to the circumstances, the Commissioner(Appeals) has rightly reduced the penalty to Rs.2,000/-. I have gone through the grounds of appeal and I find that when maximum penalty prescribed in Rule 27 is Rs.5,000/- it is not understand as to how the penalty under this rule can be enhanced to Rs.10,000/-. Rule 25 is not invokable for imposing penalty for delay in filing of ER-I returns, as none of the clauses (a), (b), (c) ~~&~~ or (d) of sub-rule (1) of Rule 25 are attracted in case of delay that too – just one instance of delay of 8 days, in filing the

ER-I return for the month of July'2004. I, therefore, do not find any infirmity in the impugned order. The Revenue's appeal is dismissed.

Order dictated in the open Court.

(Rakesh Kumar)
Member Technical

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