

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/1469/2007 – SM [BR]

Date 04/08/2009

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

To :
C.C.E ALLAHABAD

38,M.G.MARG, CIVIL LINES, ALLAHABAD

C.C.E ALLAHABAD

M/S GURURAJ RADIATORS (P) LTD.

Appellant

Vs

Respondent

I am directed to transmit herewith a certified copy of **Final order No. 856 / 2009 –SM[BR]** dated 20.7.2009
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 GURURAJ RADIATORS (P) LTD.

E-13, UPSIDC, INDUSTRIAL AREA, KARCHANA, NAINI, ALLAHABAD.

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 Publications 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 Kuni, New Delhi - 110070

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

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

15 LAWCRUX Advisors Pvt Ltd, LAW House, 1-8, Sector - 10, Faridabad 121003 (Harvana)

16 Office Copy

17 Guard file

Assistant Registrar
(SM Appeal Branch)

[Arising out of Order-in-Appeal No.40/CE/Apl/Ald/07 dated 20.03.2007 passed by the Commissioner (Appeals), Central Excise, Allahabad (U.P.)]

• Date of Hearing/ Decision:20.07.2009

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?
3. Whether Their Lordships wish to see the fair copy of the Order?
4. Whether Order is to be circulated to the Departmental authorities?

Commissioner of Central Excise, Allahabad (U.P.) ...Appellants
(Rep. by Shri Iskitkhar Baig, SDR)

Vs.

M/s. Gururaj Radiators (P) Ltd. ...Respondent
(Rep. by None.)

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

Final Order No. 856/2009-SM(CBR) Dated: 20.07.2009

Per P.K. Das:

After hearing Id. DR and on perusal of the records, the Original Authority confirmed the demand of interest under Section 11 AB of the Central Excise Act, 1944 and imposed penalty of ~~RS.~~1,000/- under Rule

13 of the Cenvat Credit Rules, 2002. It is seen from the adjudication order that the respondent availed inadmissible credit amounting to Rs.18,180/-, which they reversed before issuance of the show cause notice. Revenue filed the appeal before the Commissioner (Appeals) for imposition of minimum penalty of Rs.10,000/- under Rule 13 of the Rules, which was rejected. Hence, Revenue filed this appeal. The Larger Bench of the Tribunal in the case of CCE, Bhopal Vs. Rama Wood Crafts (P) Ltd. reported in 2008 (225) ELT 348 (T-LB) held that there is no minimum penalty prescribed under the Rules.

2. In view of that, I do not find any reason to interfere the order of the Commissioner (Appeals). Accordingly, the appeal filed by the Revenue is rejected.

Order dictated & pronounced in open court on 20.07.2009.

(P.K. Das)
Member (Judicial)

Ckp.