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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/2619/2007 – SM[BR] Date 09/10/2009

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

To :
C.C.E. LUCKNOW
7-A, ASHOK MARG, LUCKNOW.

C.C.E. LUCKNOW Appellant
Vs
M/S RENEECHA TEXTILES LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 1204 / 2009 –SM[BR] dated 22.9.2009 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 RENEECHA TEXTILES LTD.
   A-3, SECTOR 22,JAGDISHPUR, DISTT. SULTANPUR (UP)
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
15. LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Haryana)
16. Office Copy
17. Guard file

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/2619/07-SM

(Arising out of Order-in-Appeal No.47-CE/07 dt.25.4.07 passed by the Commissioner(Appeals), Lucknow)

CCE, Lucknow — Appellant

Versus

M/s. Reneecha Textiles Ltd. — Respondent

Appearance
Sh. Sansar Chand, DR For Appellant

None for Respondent

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

Final

Date of Hearing: 22.9.09
Order No. 1204/2009 SM(BR)

Per Rakesh Kumar:

This is an appeal filed by the Revenue against order-in-appeal No.47-CE/07 dt.25.4.07 passed by Commissioner(Appeals) by which the Commissioner(Appeals) dismissed Deptt.'s appeal against Asstt. Commissioner's order for enhancement of penalty. The Asstt. Commissioner's order vide order-in-original dt.8.3.06 had confirmed a duty demand of Rs.6,788/- alongwith interest against the respondent under Section 11A of Central Excise Act,1944 and imposed a penalty under Rule 25 of Central Excise

Rules,2002. The Department seeks enhancement of penalty of Rs.10,000/-. As according to the Deptt. under Rule 25(1), the minimum penalty prescribed is Rs.10,000/-.

2. None appeared for the respondent who have asked for adjournment. However, since this is a small matter, same is being taken up for decision ex-parte.

2.1 Heard Ld. DR who reiterating the grounds of appeal in the Revenue's appeal pleaded that as per the provisions of Rule 25(1), the minimum penalty prescribed of Rs.10,000/- and hence the impugned order in appeal rejecting the Deptt.'s appeal is not correct.

3. I have carefully considered the submissions of Ld. DR and have perused the records. I find that on this very issue, Larger Bench of the Tribunal in the case of CCE, Bhopal vs Rama Wood Craft (P) Ltd. reported in 2008(225)ELT.348 has held that the penalty prescribed under Rule 25(1) is the upper limit within which the adjudicating authority has discretion to impose penalty and that this rule does not prescribe any minimum penalty. Since the issue involved in this case is squarely covered by the decision of the Larger Bench of Tribunal, I 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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