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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

Date 02/12/2009

Appeal No. E/3157/2007 – SM[BR] AND E/ CO/124 /2008-SM[BR]

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

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

Appellant

C.C.E. LUCKNOW

Vs
Respondent

M/S HEINZ INDIA (P) LTD.

I am directed to transmit herewith a certified copy of **Final order No.** 1482 / 2009-SM[BR] dated 30.11.2009 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 HEINZ INDIA (P) LTD.

   MANZOORGARHI, ALIGARH (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)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-III

Date of hearing/decision: 30.11.2009

Central Excise Appeal No.3157 of 2007-SM and Cross-Objection No.E/124 of 2008-SM

Arising out of the order in appeal No.107-CE/07 dated 26.9.07 passed by the Commissioner (Appeals), Central Excise & Service Tax, Lucknow.

For Approval and Signature:

Hon'ble Shri M. Veeraiyan, Member (Technical)

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	Yes
2	Whether it should be released under Rule 27 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
3	Whether their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

C.C.E., Lucknow ... Appellant

Vs.

M/s Heinz India (P) Ltd. .... Respondent

Appearance:

Shri S.N. Srivastava, Authorized Departmental Representative (SDR) for the Revenue and none for the respondent

Coram: Hon'ble Shri M. Veeraiyan, Member (Technical)

Oral Order No. 1482/2009 SM (BR)

Per M. Veeraiyan:

Heard the learned SDR on the appeal filed by the Department and perused the written submission on behalf of the respondent.

2. The original authority imposed a penalty of Rs.1,000/- under Rule 27 for the failure of the party to file annual financial information statement to the jurisdictional Range Superintendent in the form prescribed by the Notification within the specified time. It is stated that the statement was filed on 18.12.2006 instead of filing on or before 30th November 2006. The original authority imposed a penalty of Rs.1000/-. The Commissioner

(Appeals) considering the facts and circumstances of the case, set aside the penalty and cautioned the assessee to be careful in future. The Committee of Commissioners have felt that some penalty should necessarily be imposed and therefore, directed appeal against the Commissioner (Appeals)'s order. The respondents have filed a cross-objection basically in support of the order of the Commissioner (Appeals).

3. After hearing the learned SDR, it is observed that the appeal should not have been filed considering the nature of issue involved and considering that the Commissioner (Appeals) has set aside the penalty of Rs.1000/- taking into account the submissions made before him.

4. With the above observations, the appeal is rejected. Cross-Objection is also disposed of.

(M. Veeraiyan)
Member (Technical)

scd/