

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/1532/2007 – SM[BR]

Date 06/11/2009

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

To :
C.C.E. RAIPUR
CENTRAL EXCISE BUILDING, DHAMTARI ROAD,
TIKRAPARA, RAIPUR 492001.
C.C.E. RAIPUR

Appellant

Vs

Respondent

M/S BHARAT FABRICATIORS

I am directed to transmit herewith a certified copy of **Final order No. 1411 / 2009 –SM[BR]** dated 22.10.2009 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 BHARAT FABRICATIORS

2. INDUSTRIAL ESTATE, DIST-DURG (C.G0

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 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)

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

E/Appeal No.1532 /2007-SM(Br)

(Arising out of order in appeal No.58/RPR-II/2007 dated 7.3.2007
passed by the Commissioner of Central Excise (Appeals), Raipur)

CCE, Raipur

Appellant

Vs

M/s Bharat Fabricators

Respondent

Appeared for Appellant : Shri Sunil Kumar, SDR
Appeared for Respondent : None

Date of Hearing: 22.10.09

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

final Order No. *1411* /2009 *SM(Br)*

Per D.N. Panda:

None is present for respondent.

2. Revenue has filed appeal against setting aside of penalty by the learned Commissioner (Appeals). He has held that there was delay in making payment of duty which was fixed by Revenue for every month and granted relief to assessee.

3. Learned DR submits that once there is delay in payment, the goods cleared for the delayed period shall be treated to have been duty escaped clearance. Therefore, this attract Rule 25 of the Central Excise Rules, 2002 for levy of penalty.

4. Perusal of the appellate order clearly throws light that the appellant had failed to comply with the requirement of law by the conduct of delayed payment. But learned Commissioner (Appeals) was lenient holding that there was mere default to pay Rs.402 which should not have deprived the appellant to make payment through Cenvat credit thereafter. Once process of law deprives from certain privilege due to break of law, the appellant has to suffer penalty. However, considering that the duty amount has been paid in due course, levy of penalty of Rs.10,000/- (Rupees Ten thousands) in adjudication appears to be disproportionate for which , the same is reduced to Rs.1,000/- (Rupees One thousand only) allowing appeal of Revenue partly .

(Order dictated and pronounced in the open Court).

(D.N. Panda)
Judicial Member

MPS*