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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. [illegible]T/328 /2007 – SM[BR] Date **04/01/2011**

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

To :
M/S CONTINENTAL BRAKES LTD.
SP-312, INDUSTRIAL AREA, BHIWADI, DISTT.
ALWAR.

M/S CONTINENTAL BRAKES LTD. Appellant

Vs

C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 8 / 2011-SM[BR] dated 10.12.2010 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
C.C.E. JAIPUR I
N.C.R.BUILDING, STATUE
CIRCLE, "C" SCHEME, JAIPUR
302005.
2. Adv. / Consult
MR.BIPIN GARG
B-1/1289,A-VASANT KUNJ, NEW
DELHI
3. C.D.R
4. Bar association. CESTAT. New Delhi
5. Director Publications. Customs. Excise. I.P. Estate. New Delhi
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg. Opp. ICICI Bank of Defence Colony. New Delhi -
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. M/s. Deeparchie Publications. M-93. Marg. 46. Saket. New Delhi 110017
9. Taxmann Allied Service Pvt Ltd.. 59/32. New Rohtak Road. New Delhi - 110005
10. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
11. LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Haryana)
12. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
13. Office Copy
14. Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM,
NEW DELHI-110066.

COURT NO. II

Service Tax Appeal No. 328 of 2007-SM

[Arising out of Order-in-appeal No. 56(GRM)/JPR-I/2006 dated 31.07.2006 passed by the Commissioner (Appeals-I), Central Excise & Customs, Jaipur]

Date of Hearing/decision: 10th December, 2010

For approval and signature:

Hon'ble Shri D.N. Panda, Judicial Member

1	Whether Press Reporters 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 the 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

M/s. Continental Brakes Ltd., Appellant

Vs.

CCE, Jaipur-I Respondent

Appearance:

Present for the Appellant :Shri Sukriti Dar, Advocate
Present for the Respondent :Shri R.K. Gupta, SDR

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

Final **ORDER NO.** 08/2011 SM(BR) **DATED**

PER D.N. PANDA:

Appeal for interest is not pressed. Learned Counsel is pressing for waiver of penalty only. She submits that there is no dispute on tax liability. The interest levied is only for the confusion of law for which that should be waived. She relied upon the decision of the Tribunal in the case of Greenply Industries Ltd. vs. CCE, Jaipur, reported in 2006 (4) STR 241 (Tri.-Del.). So far as penalties are concerned her prayer is for waiver.

2. On the other hand, learned D.R. submits that once there is demand of service tax, interest follows in accordance with law. Penalty should also be levied for default. The decision relied upon by the appellant shall not be of any help.

3. Heard both sides. In the judgment of Greenply Industries Ltd. (supra) relied upon by the learned Counsel, there was a specific direction by the Apex Court as an interim measure of compliance to law filing return, discharging the service tax due with interest by M/s. Gujarat Ambuja Cements Ltd. within specific time. Such specific direction was in a specific litigation. This

appellant was not a litigant before the Apex Court in that case. Therefore, para 8 of that judgment is not applicable in the present case. The time lost to collect revenue is compensated by collection of interest. Therefore, prayer of the learned Counsel for waiver of interest is not entertainable.

3. In this case there is token penalty of Rs. 500/- which has been levied under Section 77 of the Finance Act, 1994. No reason for waiver is apparent from the impugned order to come to the rescue of the appellant. Consequence of penalty follows to deter recurrence of breach of law. Finding no substance in the argument of appellant, appeal is dismissed.

(Dictated & pronounced in the Open Court.)

(D.N. PANDA)
JUDICIAL MEMBER

RK