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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. C/672 /2009-673 /2009 – SM[BR] Date 08/03/2010

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

To :
M/S PODDAR PIGMENTS LTD.
E-10, 11 F-14 TO 16 RIICO INDUSTRIAL AREA,
SITAPURA, JAIPUR.

M/S PODDAR PIGMENTS LTD. Appellant

Vs

C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 287 – 288 / 2010 –SM[BR] dated 4.3.2010 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
   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

3. M/S PODDAR PIGMENTS LTD.
   E-10, 11 F-14 TO 16 RIICO INDUSTRIAL AREA, SITAPURA,
   JAIPUR.

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: 4.3.2010

Customs Appeals No.672, 673 of 2009-SM

Arising out of the order in appeal No.10-11(DK)Cus/JPR-I/2009 dated 16.7.2009 passed by the Commissioner(Appeals), Central Excise, Jaipur I.

For Approval and Signature:

Hon'ble Mr. 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

M/s Poddar Pigments Ltd. ... Appellant

Vs.

C.C.E., Japur I ... Respondent

Appearance:

None for the Appellant
Shri S.N. Srivastava , Authorized Departmental Representative (SDR) for the Revenue

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

Oral Order No. 287 - 288/2010 SM(BR)

Per M. Veeraiyan:

These two appeals by the same appellant arise out of a common order of the Commissioner (Appeals) No.10-11(DK)Cus/JPR-I/2009 dated 16.7.2009.

2. Heard the learned SDR for the Department and none appears for the respondent. There is a request for deciding the case on merit.

3. The appellants imported goods in two consignments and lodged them in the bonded warehouse without payment of duty on 1.11.2006 and on 22.1.2007. The goods were not cleared within the period permitted for

warehousing. It appears that the appellants were seeking extension of warehousing period to enable them to clear the goods without payment of duty on the basis of advance release orders procured by them. The fact remains that the appellants were not granted extension of warehousing period and consequently, they have cleared the goods on payment of applicable customs duty along with interest. The original authority initiated proceedings for failure to clear the goods within warehousing period and imposed a penalty of Rs.10,000/- each in respect of each consignment of goods bonded by the appellants. On appeal by the parties, the Commissioner (Appeals) reduced the penalty to Rs.5000/- in each case. The appellants have preferred the appeals seeking to set aside the penalties of Rs.5000/- in these two cases.

4. On perusal of the records, it is seen that the appellants have imported the impugned goods and brought them under ~~under~~-transit bonds and warehoused the goods. Consequent to expiry of the warehousing period, the duty involved along with interest stands paid. The appellants have submitted that due to a situation beyond their control, they could not clear the goods from the bond within the stipulated period. It is also on record that the request for extension of warehousing was denied on the ground that such requests were received late and as a result they could not utilise the advance release orders in their hand. In the facts and circumstances of the case, the penalties sustained by the Commissioner (Appeals) are not justified.

5. The orders of lower authorities are set aside and the appeals are allowed with consequential relief as per law.

(M. Veeraiyan)
Member (Technical)

scd/