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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/1123/2008 – SM[BR] Date 08/04/2010

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

To :
C.C.E. LUDHIANA

CENTRAL EXCISE HOUSE, 'F' BLOCK, RISHI NAGAR,
LUDHIANA 141001 (PUNJAB)

C.C.E. LUDHIANA Appellant

Vs

M/S SARAF ELECTRICALS PVT. LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 390 / 2010-SM[BR] dated 16.3.2010 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 SARAF ELECTRICALS PVT. LTD.
RAMPURA PHUL, BARNALA (PUNJAB)
2. Adv. / Consult SHRI DEPAK KUMAR ADV.
DSK LEGAL 46, ARADHNA CHANAKYA PURI
NEW DELHI

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 – 110 066.
Principal Bench, New Delhi

COURT NO. III

Excise Appeal No. 1123 of 2008 (SM)

[Arising out of the Order-in-Appeal No. 50/CE/APPL/ LDH/2008 dated 18/03/2008 passed by The Commissioner (Appeals), Central Excise, Ludhiana.]

For Approval and signature :
Hon'ble Shri Rakesh Kumar, Member (Technical)

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	:
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	:
3.	Whether their Lordships wish to see the fair copy of the order?	:
4.	Whether order is to be circulated to the Department Authorities?	:

CCE, Ludhiana — Appellant

Versus

M/s Saraf Electricals Pvt. Ltd. — Respondent

Appearance

Shri I. Baig, Authorized Representative (SDR) – for the Appellant

None – for the Respondent.

CORAM : **Hon'ble Shri Rakesh Kumar, Member (Technical)**

DATE OF HEARING : 16/03/2010.

Final Order No. 390/2010 SM (BR) Dated : ______________

Per. Rakesh Kumar :-

This is an appeal filed by the Revenue against Commissioner (Appeals)'s order No. 50/CE/APPL/LDH/2008 dated 18/03/08 by which the Commissioner (Appeals) holding that no interest is payable by the respondent on the differential duty due to price escalation paid under supplementary invoices, allowed its refund.

2. None appeared for the respondent, though notice for hearing has been issued to them well in time, Accordingly the appeal is being taken up for hearing ex-parte, so far as the respondent are concerned.

3. Heard Shri I. Baig, the learned SDR. He pleaded that the issued involved in this case now stands decided in favour of the Revenue by Hon'ble Supreme Court in the case of **CCE,**

Pune vs. SKF India Ltd. reported in **2009 (239) E.L.T. 385 (S.C.).**

4. I have carefully considered the submissions of the learned SDR and have perused the records. I find that only issue involved in this case is as to whether the interest is payable by the respondent on differential duty due to price escalation paid by them under supplementary invoices. Since, in view of above-mentioned judgment of the Hon'ble Supreme Court, the issue stands decided in favour of the Department, the Commissioner (Appeals)'s order is not sustainable, the same is set aside and the Order-in-Original is restored. Revenue's appeal is accordingly allowed.

(Dictated and pronounced in open court)

(Rakesh Kumar)
Member (Technical)

PK