

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/1215/2008 – SM[BR]

Date 15/04/2010

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

To :
C.C.E. NOIDA
C-56/42, SECTOR-62, NOIDA-201307
C.C.E. NOIDA

Appellant
Vs
Respondent

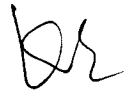
SHRI TANVIR QAMAR ANSARI (M.D.) C/O

I am directed to transmit herewith a certified copy of **Final order No. 430 / 2010 –SM[BR]** dated 7.4.2010
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
SHRI TANVIR QAMAR ANSARI (M.D.) C/O
M/S KAY FLAMES PVT. LTD.C-51, PHASE-II EXTN. NOIDA.
2. Adv. / Consult SHRI S.D.GAUR CONSULTANT.
S.B. 108 SHASTRE NAGAR
GHAZIABAD
- 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 Kuni, 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 (Harvana)
- 16 Office Copy
- 17 Guard file


Assistant Registrar
(SM Appeal Branch)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. III**

Excise Appeal No. 1215 of 2008-SM(BR)

[Arising out of Order-in-Appeal No. 52/CE/Apl./Noida/2008 dated 25.3.2008 passed by the Commissioner of Central Excise (Appeals), Meerut II, NOIDA]

For approval and signature:

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

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- | | | |
|--|---|------|
| 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 |
-

C.C.E., NOIDA

...

Appellants

Vs.

Shri Tanvir Qamar Ansari, MD

....

Respondents

Appearance:

Shri R.K. Saini, DR for the Appellants

Shri S.D. Gaur, Consultant for the Respondent

Date of Hearing/decision : 7.4.2010

ORAL ORDER NO. 430/2010 SM(BY)

Per M. Veeraiyan:

This is an appeal by the Department seeking restoration of penalty of Rs.75,000/- on Shri Tanvir Qamar Ansari, MD of M/s. Kay Flames (P) Ltd. which was reduced by the Commissioner (Appeals) to Rs. 17,882/- which was equal to duty involved on goods found short. On perusal of the grounds of appeal, it is noticed that the enhancement was sought for on the ground that during the relevant time, Rule 209 A provided for “..... penalty not exceeding three times the value of such goods or Rs.5,000/- whichever is greater”. In other words, there was no mandatory penalty prescribed under Rule 209A. It only prescribed the maximum limit. While the original authority imposed a penalty of Rs.75,000/- on the Director, considering the value of offending goods involved being Rs.2,73,523/-, the Commissioner (Appeals) reduced the same to Rs.17,882/-. The order of the Commissioner (Appeals) cannot be held to be unreasonable. No valid grounds adduced to interfere with the order of the Commissioner (Appeals).

2. The appeal by the Department is rejected.

(M. Veeraiyan)
Member(Technical)

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