TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

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/ 55 / 2010 -SM[BR] & C/ STAY / 288 / 2010-SM[BR] Date 03/05/2010

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

To :
SHRI AJIT SINGH,

S/O SHRI HAZARA SINGH WALIA, R/O D-379,
SWAROOP NAGAR, GALI NO. 4, NEW DELHI.
SHRI AJIT SINGH, Appellant

Vs

C.C. LUCKNOW Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 480 /2010-SM[BR]& S/ 156 / 2010 dated 28.4.2010 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. LUCKNOW

   HALL NO. 3,5TH AND 11TH FLOOR, KENDRIYA BHAWAN, SECTOR -H, ALIGANH, LUCKNOW 226024.
2. Adv. / Consult

   MR.NAVEEN MULLICK,ADV

   B-388, MEERA BAGH, N.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. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9. M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
10. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005
11. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
12. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
13. Office Copy
14. Guard file
15. TAXINDIAONLINE.COM PVT.LTD. UNIT NO. 1, 2ND FLOOR, VASANT ARCADE, NELSON MANDELA ROAD, VASANT KUNJ NEW DELHI-70.

Assistant Registrar
(SM Appeal Branch)

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

Customs Appeal No. 55 of 2010-SM(BR)
Customs Stay Application No. 288 of 2010-SM(BR)

[Arising out of Order-in-Appeal No. 24 /Cus/Alld/2008 dated 4.11.2008 passed by the Commissioner of Customs & Central Excise (Appeals), Allahabad]

For approval and signature:

Hon'ble Mr. M. Veeraiyan, 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? : 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

---

Ajit Singh Walia — Appellants

Vs.

Commissioner of Customs Lucknow — Respondent

Appearance:

Shri Naveen Mullick, Advocate for the Appellants
Shri I. Baig, SDR for the Respondent

Date of Hearing/decision : 28.4.2010

Final **ORAL ORDER NO.** 480/2010 SM(BR) &

Per M. Veeraiyan: STAY ORDER NO. 156/2010 SM(BR)

Heard both sides.

2. Considering the nature of dispute involved, stay application is disposed of and the appeal itself is taken up for final disposal.

3. This is an appeal against the order of the Commissioner (Appeals) No. 24 /Cus/Alld/2008 dated 4.11.2008.

4. The appellant, who was the owner cum driver of a truck, was admittedly involved in transporting the goods and crossed the Customs barrier with the goods without filing bill of export and without obtaining clearance from the Customs. The original authority confiscated the truck valued at Rs.3 lakh and allowed the same to be redeemed on fine of Rs.25,000/-. He also imposed penalty of Rs.5,000/- on the appellant.

5. Learned Advocate submits that the value of goods involved was Rs.75,000/- and the goods were confiscated with the Redemption Fine of Rs.10,000/-. As driver cum owner, under the impression that documentation will be completed later, he crossed the Border. He seeks vacation of confiscation and penalty. Alternatively, he seeks reduction in Redemption Fine and penalties.

6. Learned SDR reiterates the findings and reasoning of the Commissioner (Appeals).

7. I have carefully considered the submissions from both sides and perused the records. It is not disputed that the appellant who is owner cum

vehicle
driver of the crossed the Customs barrier along with goods without the Customs formalities having been completed. Under these circumstances, confiscation of the vehicle and imposition of penalties are justified. However, considering the entire facts and circumstances of the case, including the value of the goods sought to be exported, I reduce the Redemption Fine from Rs.25,000/- to Rs.10,000/- (Rupees Ten thousand only). The penalty imposed is not excessive and, therefore, the same is not being interfered with.

8. The appeal is disposed of on the above terms. The stay application also stands disposed of. The appellants shall be entitled to consequential relief as per law.

(M. Veeraiyan)
Member(Technical)

ss