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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. ST/692 /2009 – SM[BR] Date 31/05/2010

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

To :
C.C.E. CHANDIGARH
C.R. BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH 160017

C.C.E. CHANDIGARH Appellant
Vs
M/S FIRST FLIGHT COURIERS LTD Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 588 / 2010-SM[BR] dated 25.5.2010 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
M/S FIRST FLIGHT COURIERS LTD
25/4, INDUSTRIAL AREA, PHASE-II, CHANDIGARH.
2. Adv. / Consult SHRI RUPENDER SINGH ADV.
M/S RESPONDENT;---------------

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 -110070.

Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal No.692/09 -SM(Br)

(Arising out of order in appeal No.278/CE/Chd.I/09 dated 28.7.09 passed by the Commissioner of Central Excise (Appeals), Chandigarh)

CCE, Chandigarh — Appellant

Vs

M/s First Flight Couriers Ltd — Respondent

Appeared for Appellant : Shri I. Baig, SDR
Appeared for Respondent : Shri Rupender Singh, Advocate

Date of Hearing: 25.5.2010

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

Final Order No. 588 /2010 SM(Br)

Per D.N. Panda:

The dispute precisely by Revenue is that dropping of penalty under Section 76 is not permissible and granting concession under Section 78 is equally not sustainable. Therefore, Revenue prays to reverse the appellate order to bring the same in order with the original order.

2. Learned Counsel for the respondents submits that penalty under Sections 77 and 78 are independent of each other. Concessional penalty under Section 78 is mandate of fourth proviso to Section 78. That aspect having been considered, the concession was granted. So far as penalty under Section 76 is concerned,

learned Commissioner was of the view that there should not be simultaneous penalty on different counts

3. Heard both the sides and perused the record. Para 9 of the appellate order brings out the averment of the learned counsel for claiming concessional penalty. There is no infirmity in decision making by the learned Commissioner (Appeals) in respect of such penalty. Therefore, Revenue's appeal on this score to restore the order in original is unwarranted.

4. So far as the penalty under Section 76 is concerned, learned Commissioner (Appeals) has stated the reason in para 8 of the order. Considering the reason proper Revenue's appeal on both counts is rejected.

(Order dictated and pronounced in the open Court.)

(D.N. Panda)
Judicial Member

MPS*