

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/946 /2008 – SM[BR]

Date 23/12/2010

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

To :
C.C.E. DELHI IV
NEW CGO COMPLEX, NH-IV, FARIDABAD,
HARYANA 121001.
C.C.E. DELHI IV

Appellant
Vs
Respondent

M/S AMAN ENTERPRISES (UNIT-II)

I am directed to transmit herewith a certified copy of Final order No. 1472 / 2010-SM[BR] dated 4.11.2010
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 AMAN ENTERPRISES (UNIT-II)
PLOT NO. 11-12, ROAD W-7,
SAROORPUR INDUSTRIAL
AREA, SOHNA ROAD,
FARIDABAD, HARYANA.

2. Adv. / Consult

NONE:-----

3. C.D.R

4. Bar association, CESTAT, New Delhi

5. Director Publications, Customs, Excise. I.P. Estate, New Delhi

6. M/s Centax Publications Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -

7. Company Law Institute of India Pvt Ltd., No.2 (Old No. 36), Vaithyaram Street, T. Nagar, Chennai -17

8. M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017

9. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005

10. Easy Service Tax Online Dot Com Pvt.Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road,
Ahmedabad-15

11. LAWCRUX Advisors Pvt Ltd, LAW House, 1-8, Sector - 10, Faridabad 121003 (Harvana)

12. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor, Vasant Arcade, Nelson Mandela Road,
Vasant Kunj, New Delhi - 110070

13. Office Copy

14. Guard file


Assistant Registrar
(SM Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
Court No.IV

E/Appeal No. 946/08-SM

(Arising out of order in appeal No.3/CE/Appl/DLH-IV/08 dated 14.2.08
passed by the Commissioner of Central Excise (Appeals), Faridabad)

Date of Hearing:4.11.2010

For approval and signature:

Hon'ble Mrs Archana Wadhwa, Member (Judicial)

1. Whether Press Reporters may be allowed to see
CESTAT (Procedure) Rules, 1982?
2. Whether it should 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 Departmental
Authorities?

CCE, Delhi-IV

Appellants

Vs

M/s Aman Enterprises

Respondent

Appeared for the Appellant: Shri S.K. Bhaskar, DR
Appeared for the Respondent: None

Coram: **Hon'ble Mrs Archana Wadhwa ,Member (Judicial)**

final ORDER - 1472 / 2010 SM (BY)

Per Archana Wadhwa:

After hearing the learned DR, I find that the short issue involved
in the present appeal is as to whether interest is payable on the
differential duty paid ~~by~~ supplementary invoices when there was

price escalation subsequent to clearance of goods. The Commissioner (Appeals) has allowed the appeal by following various decisions of the Tribunal.

2. However, I find that the said decision has been reversed by the Hon'ble Supreme Court while allowing the Revenue's appeal in the case of CCE Pune Vs SKF India reported in 2009 (234) ELT 385 (SC). It stands held in the said judgment that interest is to be paid when the differential duty on account of price escalation is paid through supplementary invoices. By following the said decision, I set aside the impugned order in so far as the charge of interest is concerned.

3. However, as observed by the Hon'ble Supreme Court in the above decision, no penalty is to be imposed. As such, the said ^{part of the order} ~~appeal~~ *relative to penalty* is not being interfered with. In view of the above, Revenue's appeal is allowed to the extent of interest.

(ARCHANA WADHWA)
Judicial Member

MPS*