

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/239 /2008 – SM[BR]

Date 27/01/2010

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

To :
C.C.E. JALLANDHAR(HQ. AT CHANDIGARH)
C.R.BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH.
C.C.E. JALLANDHAR(HQ. AT CHANDIGARH)

Appellant

Vs
Respondent

M/S DCM ENGINEERING PRODUCTS

I am directed to transmit herewith a certified copy of Final order No. 121 / 2010 –SM[BR] dated 23.12.2009
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 DCM ENGINEERING PRODUCTS

VILL- ASRON, DISTT. NAWANSHAHAR (PUNJAB)

2. Adv. / Consult SHRI G.K. MAHAJAN ADV.

B-2/210[BASMENT]

SAFDARJUING ENCLAVE NEW DELHI-29.

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 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 (Harvana)

16 Office Copy

17 Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
SINGLE MEMBER BENCH

Excise Appeal No.239 of 2008

(Arising out of Order-in-Appeal No.405/CE/Apl/Jal/2007 dated
31.12.2007 passed by the Commissioner of Central Excise (Appeals),
Jalandhar)

Date of Hearing: 23.12.2009
Date of Decision: 23.12.2009

CCE, Jalandhar

Appellant

Vs.

M/s.DCM Engineering Products

Respondent

Present for the Appellant: Shri Vijai Kumar, SDR
Present for the Respondent: Shri G.K.Mahajan, Advocate

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

final ORDER NO. 121 / 2010 SM(Br)

PER: D.N.PANDA

Ld.SDR submits that so far as interest demand is concerned, there is already direction of the Tribunal confirming levy of interest in Appeal No.E/1781/2007-SM filed by Revenue and its appeal was disposed off on 6.10.2009. Now present grievance is against penalty. Penalty not being imposed for no reason stated in the adjudication order, Revenue's appeal has been filed.

2. Ld.Counsel submits that in view of interpretation of law involved in respect of levy of interest on supplementary invoices, the appellant could not pay interest liability duly and also due to financial hardship *there was default* for which penalty was levied. Ld.Adjudicating Authority has dropped

penalty considering financial hardship and debatable question of law relating to levy of interest *was before him.*

3. Heard both sides and perused the records.

4. Interest liability having undertaken by the respondents and that having been confirmed by the Tribunal by its order dated 6.10.2009 as stated by the Id.SDR, only penalty aspect remains for hearing today. Considering the issue was debatable for sometime and litigations have marched through various forums, imposition of penalty is considered to be unwarranted in the fitness of the circumstances of the case. Accordingly, Revenue's appeal is dismissed except upholding interest liability as has been held by the Tribunal to the extent indicated above.

(D.N.PANDA)
JUDICIAL MEMBER

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