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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/910 /2010 – SM[BR] &ST/STAY/1803/2010-SM[BR] Date 08/09/2010

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

To :
M/S SHIVAM OIL MILL,
INDUSTRIAL ESTATE, PLOT NO. 28/29, MAKRAND NAGAR, KANNAUJ.

M/S SHIVAM OIL MILL, Appellant

Vs

C.C.E. LUCKNOW Respondent

I am directed to transmit herewith a certified copy of **Final order** No.957/2010-SM[BR]&S/408/2010 dated 1.9.2010 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.E. LUCKNOW
   7-A, ASHOK MARG, LUCKNOW.
2. Adv. / Consult
   MR.AMIT AWASTHI
   H-1, IST FLOOR, RADHEY APPARTMENT PLOT NO. 7/116A, SWAROOP NAGAR, KANPUR-208002
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. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file

Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing/ Decision:27.08.2010

ST/Stay/1803 of 2010-SM (BR) in
ST Appeal No.910 of 2010-SM (BR)

For approval and signature:
Hon'ble Shri Ashok Jindal, Member (Judicial)

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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? :

[Arising out of Order-in-Appeal No.72-ST/LKO/2010 dated 29.03.2010 passed by the Commissioner of Central Excise (Appeals), Lucknow].

M/s.Shivam Oil Mill — Appellant

Vs.

CCE, Lucknow — Respondent

Appearance: Rep. by Shri A.K. Dixit, Advocate on behalf of the appellants.
Rep. by Shri K.P. Singh, SDR on behalf of the respondent/Department.

CORAM: **Hon'ble Shri Ashok Jindal, Member (Judicial)**

Final Order No. 957/2010 SM(BR)/Dated:26.08.2010

S- 408/2010 SM(BR)

Per Ashok Jindal:

The appellants have filed this appeal along with the stay application. Today, the matter is listed for stay application. I find that the issue involved is in narrow compass. After waiver of pre-deposit, I took-up the appeal also for disposal with the consent of both the parties. The only issue involved in this case is that whether the appellant is liable to pay 100% penalty confirmed under Section 8 of the Finance Act, 1994 on GTA services as service recipient and waiver of penalty under Section 77 and Rule 7 C of the Service Tax Rules, 2002.

2. At this stage, ld. Advocate for the appellant submits that the appellants are ready to pay 25% of the service tax as penalty. As they have paid the service tax with interest before adjudication of the case, the same may be considered and rest of the penalty under Section 7C be waived.

3. Considering the submissions made by the ld. Advocate without going into the merit as offered by the ld. Advocate, the appellant is ready to deposit 25% of the service tax as penalty. Penalty is reduced to 25% of Service Tax under Section 78 of the Finance Act. Penalties under Section 77 and 7 C of the Service Tax Rules, 2002 are dropped.

4. The appellants are directed to deposit 25% of the service tax as penalty within 30 (thirty) days of the communication of this order, failing

which the applicant shall be liable to pay 100% penalty as confirmed on them. With these observations, the appeal as well as the stay application is disposed of.

(Ashok Jindal)
Member (Judicial)

Ckp.