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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. E/960 /2006 – SM[BR] Date 09/09/2010

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

To :
CCE,JALANDHAR
C.R. BUILDING., PLOT NO. 19, SECTOR17-C,CHANDIGARH
CCE,JALANDHAR Appellant

Vs

M/S PRINCE SUBMERSIBLE PUMPS. Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 971 / 2010-SM[BR] dated 1.9.2010 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 PRINCE SUBMERSIBLE PUMPS.
   104 INDUSTRIAL FOCAL POINT, AMRITSAR
2. Adv. / Consult
   NONE;-----------------

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)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R. K. Puram, New Delhi
COURT-IV

Date of hearing: **1.9.2010**

Excise Appeal No. 960 of 2006-SM

[Arising out of Order-in-Appeal No. 06/CE/Jal/2006 dated 13.1.2006 passed by the Commissioner (Appeals), Customs & Central Excise, Jalandhar]

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.	Ys
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Ys
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?	Ys

CCE, Jalandhar — Appellant

Vs.

M/s Prince Submersible Pumps — Respondent

Appearance:

Appeared for the Appellant - Shri R.K. Gupta, SDR
Appeared for the Respondent - None

Coram: Hon'ble Mr. M. Veeraiyan, Member (Technical)

Final Order No. 971/2010 SM(BR)

Per M. Veeraiyan:

This is an appeal by the department against the order of the Commissioner (Appeals) by which penalty of Rs.79,043/- imposed on the respondent was reduced to Rs.10,000/-.

2. Heard the ld. SDR. None appears on behalf of the respondent. Ld. SDR submits that there is no dispute about the duty liability. The respondent has manufactured Centrifugal Submersible Pumps and centrifugal pumps with the brand name of "PRINCE'. Investigation revealed that the said brand name 'PRINCE' was already registered in the name of M/s Kalsi Metal Works, Jalandhar. Therefore, he seeks restoration of the penalty of equal amount as imposed by the original authority.

3. Undisputedly, the brand name 'PRINCE' did not belong to the respondent. However, no evidence has been relied upon indicating that the respondent using the said brand name was registered in the name of some other person and that the respondent knowingly used the said brand name ~~which~~ while wrongly claiming exemption under the SSI exemption Notification No. 8/2001-CE dated 1.3.2001. The Commissioner (Appeals) has taken note of the decision of the Tribunal where in such cases the exemption was being extended. In the absence of evidence relating to knowledge about the use of the brand name of others and any intention on the part of the respondent, I do not find any valid reason to interfere with the order of the Commissioner (Appeals). Appeal for seeking enhancement of penalty is, therefore, without merit. The appeal is rejected.

(Dictated & pronounced in open Court)

(M. VEERAIYAN)
MEMBER (TECHNICAL)

RM