

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/23 /2009 – SM[BR]

Date 23/09/2010

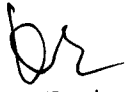
Assistant Registrar
C.E.S.T.A.T, New Delhi

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 LTD.,

I am directed to transmit herewith a certified copy of Final order No.1015 / 2010-SM[BR] dated 14.9.2010
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 DCM ENGINEERING LTD.,

VILL.-ASRON, DISTT.-NAWASHAHAR (PUNJAB)

2. Adv. / Consult SHRI G.K. MAHAJAN ADV.
B-2/210, SAFDARJUNG 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 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

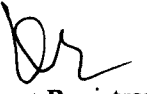
11 Easy Service Tax Online Dot Com Pvt.Ltd.407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-15

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

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
NEW DELHI
Court No.IV

E/Appeal No.23/2009-SM

(Arising out of order in appeal No.698/CE/App/Jal/08 dated 23.10.08
passed by the Commissioner of Central Excise (Appeals), Jalandhar)

Date of Hearing:14.9.2010

For approval and signature:

Hon'ble Shri M. Veeraiyan, Member (Technical)

1. Whether Press Reporters may be allowed to see
Under Rule 27 of the CESTAT (Procedure) Rules, 1982? *Yes*
2. Whether it should be released under Rule 27 of the
CESTAT(Procedure) Rules, 1982 for publication
in any authoritative report or not? *No*
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? *No*

CCE, Jalandhar

Appellants

Vs

M/s DCM Engg Ltd

Respondent

Appeared for the Appellant: Shri Anil Khanna, SDR
Appeared for the Respondent: Shri G.K. Mahajan, Advocate

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

final ORDER 10/5/2010 SM *(Bx)*

Per M. Veeraiyan:

This is an appeal by the department against the order of the
Commissioner (Appeals) No. 698/CE/App/Jal/08 dated 23.0.08.

2. Heard both sides.

3. The issue involved is the liability of interest on differential amount collected by the assessee on account of upward revision of prices by issuing supplementary invoices. Both sides agree that the matter has been settled by the Hon'ble Supreme Court in the case of CCE Pune Vs. SKF India Ltd reported in 2009 (239) ELT 385 (SC) holding that in such a situation, the interest is leviable.

4. The learned Advocate for the respondents submits that the imposition of any penalty as held by the original authority does not arise as the issue involved is interpretation of legal provision.

5. Considering the entire facts and circumstances of the case, I set aside the order of Commissioner (Appeals) and restore the order of the original authority. While restoring the order of original authority relating to confirmation of interest, penalty of Rs.10,000/- imposed on the respondent is set aside.

(M. VEERAIYAN)
Technical Member

MPS*