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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/40 /2009 – SM[BR]   Date 24/09/2010

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

To :
C.C.E. LUDHIANA

CENTRAL EXCISE HOUSE, 'F' BLOCK, RISHI NAGAR,
LUDHIANA 141001 (PUNJAB)
C.C.E. LUDHIANA   Appellant

Vs

M/S HERO CYCLES LTD. (CRD),   Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1041 / 2010-SM[BR] dated 15.9.2010 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 HERO CYCLES LTD. (CRD),
   HERO NAGAR, G.T.ROAD, LUDHIANA (PUNJAB)
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
NEW DELHI
Court No.IV

E/Appeal No.40/09-SM

(Arising out of order in appeal No.354/CE/LDH/08 dated 30.10.08 passed by the Commissioner of Central Excise (Appeals), Chandigarh)

Date of Hearing:15.9.2010

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, Ludhiana — Appellants

Vs

M/s Hero Cycles Ltd — Respondent

Appeared for the Appellant: Shri Anil Khanna, SDR
Appeared for the Respondent: None

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

Final ORDER 1041/2010 SM (Br)

Per M. Veeraiyan:

This is an appeal by the department against dropping of demand of interest of 36,433/- and penalty of Rs.5,000/- by the original authority.

2. Heard the learned SDR. None appears for the respondent. However, the respondent has filed written submissions dated 10.9.2010 which has been taken into account.

3. The learned SDR submits that the issue of liability to interest of duty paid on differential amount collected by the assessee by issuing supplementary invoices is settled by the Hon'ble Supreme Court in the case of CCE Pune Vs. SKF Ltd reported in 2009 (239) ELT 385.

4. While the liability to interest stands settled by the Hon'ble Supreme Court, it is noticed that the interest liability relating to supplementary invoices raised during the period 1.1.2005 to 31.2.2005 stands raised by the show cause notice dated 24.4.2007 and therefore, the entire demand of interest is time barred. In the facts and circumstances of the case, no penalty is also warranted.

5. On merits, the department succeeds. However, there is no question of restoring the demand and penalty in view of limitation. The appeal is disposed of.

(M. VEERAIYAN)
Technical Member

MPS*