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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066

EXCISE APPEAL BRANCH

Date 06/09/2010

Appeal No. E/1038/2010 - EX[DB] WITH
E/S/1086/2010-EX

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

To :
SH. SATPAL SINGH
349, THANEWALI GALI, GHAZIABAD. Appellant

Vs

SH. SATPAL SINGH Respondent

STAY ORDER NO.610/2010-EX

C.C.E. GHAZIABAD

I am directed to transmit herewith a certified copy of **Final order No. 632/ 2010 EX[DB]** dated 23-8-10 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
   C.C.E. GHAZIABAD
   C.G. O. COMPLEX-II, KAMLA NEHRU NAGAR, GHAZIABAD 201302
2. Adv. / Consult
   MR.KAMALJEET SINGH
   J-144, PATEL NAGAR -I,GHAZIABAD.

3 C.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 (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
16. HON'BLE PRESIDENT.

Assistant Registrar
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. I

DATE OF HEARING : 23/08/2010.
DATE OF DECISION : 23/08/2010.

Excise Stay Application No. 1086 of 2010 in E/1038/10-EX

Shri Satpal Singh — Appellants

Versus

CCE, Ghaziabad — Respondent

Appearance

Shri Kamaljeet Singh, Advocate – for the Appellants.

Shri Nitin Anand, Authorized Representative (DR) – for the Respondent.

CORAM : **Hon'ble Shri Justice R.M.S. Khandeparkar, President**
Hon'ble Shri Rakesh Kumar, Member (Technical)

STAY Order No. 610/10-EX Dated : ____________

Per. Shri Justice R.M.S. Khandeparkar :-

Since we proposed to dispose of the appeal itself, the stay application is allowed without insisting for pre-deposit and directing the Registry to place the appeal for hearing forthwith.

(Justice R.M.S. Khandeparkar)
President

(Rakesh Kumar)
Member (Technical)

PK

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. I

DATE OF HEARING : 23/08/2010.
DATE OF DECISION : 23/08/2010.

Excise Appeal No. 1038 of 2010

[Arising out of the Order-in-Original No. 57/Commissioner/GZB/ 2009 dated 23/12/2009 passed by The Commissioner of Central Excise (Appeals), Ghaziabad.]

For Approval and signature :

Hon'ble Justice R.M.S. Khandeparkar, President
Hon'ble Shri Rakesh Kumar, 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?	:	Yes
2.	Whether it would 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?	:	See
4.	Whether order is to be circulated to the Department Authorities?	:	Y

Shri Satpal Singh — Appellants

Versus

CCE, Ghaziabad — Respondent

Appearance

Shri Kamaljeet Singh, Advocate – for the Appellants.

Shri Nitin Anand, Authorized Representative (DR) – for the Respondent.

CORAM : **Hon'ble Shri Justice R.M.S. Khandeparkar, President**
Hon'ble Shri Rakesh Kumar, Member (Technical)

FINAL Order No. 632/10-EX Dated : ______________

Per. Shri Justice R.M.S. Khandeparkar :-

This appeal is being heard in terms of order passed today in stay application No. E/S/1086 of 2010.

2. We have heard the learned advocate for the appellants and learned DR for the respondent and perused the records.

3. In the impugned order, the appellants has been subjected to payment of penalty of Rs. 5,00,000/- (Rupees Five Lakhs) on the following ground :-

> "4.26 As regards imposition of penalty on Shri S.P. Singh (Noticee no. 5), I find that he was working as broker in iron and steel trade and was involved in arranging Cenvatable invoices without accompanying goods from M/s PSPL to M/s Bhagwati Trading Co. & M/s Ayushi Steel. His active involvement in this act is established from the fact that he was getting Rs. 25/- per M.T. as brokerage for the billed quantity. Further some documents like three cheques all dated 04.09.03 for Rs. 5,00,000/- each issued by M/s PSPL and also three self cheques of Rs. Five Lacs each of M/s Goel Cable & Conductors (which was of Shri Upender Goyal) were resumed from his residence which were meant to justify sales (fake). As such he was also getting arranged the accommodation entries of the buyers of Cenvatable bills in the bank account of M/s PSPL. In this way he was concerned and dealt with the excisable goods, which he knew were liable for confiscation as also discussed above in detail. Thus I hold that Shri S.P. Singh (Noticee no. 5), is

liable for penal action under the provisions of Rule 26 of the Central Excise Rules, 2002."

4. Similar issue arose in various matters, which were decided on 8th of September 2009 in M/s V.K. Enterprises vs. CCE, Panchkula and various others in Excise appeal No. 847/2009 and others, wherein it was held that :-

> "14.3 Penalties have been imposed on the appellants Shri Satpal Singh, the broker and commission agent, and Shri Vijay Goel under Rule 26 of the Central Excise Rules. Unlike the dealers, the brokers have dealt with the goods only as a link between the buyer and the seller of the goods. They were not required to register themselves with Excise authorities and no violation of any obligation on their part has been cited. Therefore, we are of the view that role of the brokers may not attract the provisions Rule 26, before the amendment."

5. For the reasons stated in said decisions quoted above, the appeal is bound to succeed and is accordingly hereby allowed and the impugned order as far as the appellant is concerned, the same is hereby set aside. The appeal is accordingly disposed of in above terms.

(Justice R.M.S. Khandeparkar)
President

(Rakesh Kumar)
Member (Technical)

PK