

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066**  
**EXCISE APPEAL BRANCH**

Appeal No. E/1530/2005 - EX[DB]

Date 27/10/2010

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

To :  
M/S DESIGN AUTO SYSTEMS LTD.  
PLOT NO-58,SECTOR NO-1,PITHAMPUR DISTT DHAR  
M.P.  
454775

M/S DESIGN AUTO SYSTEMS LTD.

C.C.E. INDORE

Appellant

Vs  
Respondent

I am directed to transmit herewith a certified copy of Final order No. 740/  
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

2010 EX[DB] dated 20-10-10

  
Assistant Registrar  
(Excise Appeal Branch)

**Copy to :**

1. Respondent

C.C.E. INDORE

MANIK BAGH PALACE, POST BOX NO. 10, INDORE 452001 (M.P.)

2. Adv. / Consult

MR.JAIDEEP WADGE

10, BAIRATHI COLONY NO.1, P.O. PAGNISPAGA, INDORE, M.P. 452007

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 Publications Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3

Company Law Institute of India Pvt Ltd., No.2(Old No. 36), Vaithyaram Street, T. Nagar, Chennai -17

M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017

8 Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005

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

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

11 TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New  
Delhi - 110070

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Assistant Registrar  
(Excise Appeal Branch)

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

**COURT No. II**

**CENTRAL EXCISE APPEAL NO. 1530 OF 2005-Ex**

(Arising out of Order-in-Original No.  
61/COMMR/CEX/IND/2004 dated 24.08.2004 passed by  
the Commissioner, Central Excise, Indore)

M/s. Design Auto Systems Ltd.,

Appellants  
None

Versus

CCE, Indore

Respondent  
Rept. By Shri B.L. Soni, SDR

**Date of Hearing/decision: 29<sup>th</sup> September, 2010**

Coram: Hon'ble Shri D.N. Panda, Judicial Member;  
Hon'ble Shri Rakesh Kumar, Technical Member

**FINAL ORDER NO. 740/10-600 DATED**

**Per D.N. Panda:**

None present for the appellants. From the discussion and finding in para 11 at page 27 of the appeal folder it appears that the present appeal arose consequent upon de-novo adjudication. It appears that the authorities acted on the basis of direction issued by the Tribunal. Learned Commissioner has reproduced the direction of the Tribunal while deciding the matter before

him. That clearly indicates that penal consequence was to follow, if there was failure to observe rule relating to excise duty.

2. When the aforesaid aspect came to light we looked into para 12 of the appellate order. That para indicates that there was failure on the part of the assessee to comply with fortnight payment facility. When failure came to light the assessee faced penalty consequences.

3. With the aforesaid factual finding we <sup>are</sup> assisted by the learned D.R. to dispose of this appeal since the matter relates to the year 2005. Learned D.R. submits that penalty is much liberal and <sup>not</sup> disproportionate to the gravity of offence. Penalty <sup>was</sup> under Rule 25 of Central Excise Rules, 2001 and the quantum <sup>was</sup> Rs. 1 lakh. There was no adverse consideration made by the authorities below.

4. We have found that the appellant is enjoying the benefit of stay order since 27.6.2005 and <sup>is</sup> not conscious <sup>of</sup> right to appeal for <sup>expeditious disposal</sup>. We have also noticed that the notices have been returned back without being served. Therefore, without dismissing the appeal for default we appreciate the finding of the

learned Commissioner and dismiss the appeal on merit.

Consequently, appeal is dismissed.

(Dictated & pronounced in the Open Court.)

(D.N. PANDA)  
JUDICIAL MEMBER

(RAKESH KUMAR)  
TECHNICAL MEMBER

RK