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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

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

CUSTOMS APPEAL BRANCH

Appeal No. C/242 /2008 - CU[DB] Date **12/03/2012**

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

To :
SH. JAMAL HAIDER SIDDIQUI

M/S HI-TECH MEDICARE C-103/24, HI-TECH
HOUSE,KASYA ROAD, GORAKHPUR

SH. JAMAL HAIDER SIDDIQUI Appellant

Vs

C.C.E ALLAHABAD Respondent

I am directed to transmit herewith a certified copy of **Final order No.C/A/58/ 2012 CU[DB]** dated 05.03.12 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
C.C.E ALLAHABAD
38,M.G.MARG, CIVIL LINES,
ALLAHABAD

2. Adv. / Consult
MR.J M SHARMA
252, BASANT ENCLAVE,(NEAR VASANT VIHAR) N DELHI-110057

3. C.D.R
4. Bar association. CESTAT. New Delhi
5. Director Publications. Customs, Excise. I.P. Estate, New Delhi
6. M/s Centax Publictions Pvt Ltd.,1512-B, Bhishm Pitamah marg,Opp. ICICI Bank of Defence Colony. New Delhi-3
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
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 (Haryana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file

Assistant Registrar
(Customs Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing/decision: 5.3.2012

Customs Appeal No.242 of 2008

Arising out of the order in appeal No.212-CE/ALLD/2007 dated 22.12.2007 passed by the Commissioner (Appeals), Customs & Central Excise, Allahabad.

For Approval and Signature:

Hon'ble Mr. S.S. Kang, Vice President
Hon'ble Mr. Mathew John, Technical Member

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 26 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 26 of 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?	Yes

Jamal Haider Siddiqui .. Appellant

Vs.

C.C.E., Allahabad .... Respondent

Appearance:

Shri J.M. Sharma, Consultant for the appellants/applicants
Shri K.K. Jaiswal, A.R. for the respondent

Coram: Hon'ble Mr. S.S. Kang, Vice President
Hon'ble Mr. Mathew John, Technical Member

Final Oral Order No. C/A/58/12-Cus.

Per Mr. S.S. Kang:

Heard both sides. The appellant filed this appeal against the impugned order passed by Commissioner (Appeals).

2. The brief facts of the case are that the appellant was an employee of Hi-Tech Needles (P) Ltd. During search by the Revenue officers, certain quantity of needle was found in the factory and certain quantity of cannulae was found. The case of the Revenue is that needle was manufactured and the cannulae was smuggled into India. The adjudicating authority confirmed the demand in respect of needle and ordered confiscation of cannulae and imposed a penalty of Rs.2 lakhs on the applicant under Section 112 of the Customs Act read with Rule 209 of Central Excise Rules, 1944. The appellant filed appeal before Commissioner (Appeals) and the Commissioner (Appeals) reduced the penalty from Rs.2 lakhs to Rs.50,000/- .

3. In respect of penalty under Customs Act, Hi-Tech Needles (P) Ltd. and Managing Director filed appeals before Tribunal and the Tribunal vide order dated 11.1.2012 in Customs Appeals No.670-671 of 2007 set aside the confiscation of cannulae and consequential redemption fine and penalties. In view of ~~the~~ this earlier order, penalty imposed under Section 112 of the Customs Act is not sustainable and hence is set aside. In respect of penalty imposed under Rule 209 of the Central Excise Rules, 1944 we find that provisions of Rule 209 of Rules are applicable in respect of manufacturer, producer or registered dealers in case there is contravention of any provisions of Rules. The appellant is an employee of Hi-Tech Needles (P) Ltd. and he is working under the

direction of Managing Director of the company. In view of above, we find that the penalty imposed under Rule 209 of the Central Excise Rules is also not sustainable and is set aside. The appeal is allowed

(S.S. Kang)
Vice President

(Mathew John)
Technical Member

scd/