

**Commissioner of Central Excise Vs. Orient Paper and Industries Ltd.**

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**SooperKanoon Citation :** [sooperkanoon.com/38192](http://sooperkanoon.com/38192)

**Court :** Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

**Decided On :** Feb-21-2005

**Reported in :** (2005)(183)ELT126TriDel

**Judge :** S Kang, Vice-, M T K.C.

**Appellant :** Commissioner of Central Excise

**Respondent :** Orient Paper and Industries Ltd.

**Judgement :**

1. Heard both sides. Common issue is involved in these appeals, therefore, they are being taken up together.

2. Revenue filed these appeals against the Order-in-Appeal passed by the Commissioner (Appeals). The Commissioner (Appeals) in the impugned order held that question of penalty and interest will arise only if service tax is not paid within six months from 13-5-03 from the date of revalidation Act. Commissioner (Appeals) further held that if any violation is found to have been committed, a show cause notice was issued by the proper officer. In both the cases, Revenue is not disputing the fact that service tax has been paid by the appellant prior to six months from 13-5-2003.

3. We find that Section 68 and 70 of Finance Act, 2003 amended respectively by the Finance Act, 2003 and a new Section 71A has been inserted to validate the collection of service tax from the service receiver in case of service of goods

transport operator. This rule provides that in case service is provided by the goods transport operator for the period in question the service receiver shall furnish a return within a period of six months from 13-5-03. In the present case as the respondent had paid the due service tax prior to six months from the date the Finance Act come into force. Further we find that the Commissioner (Appeals) held that in case there is any violation to these provisions, the proper officer can issue a show cause notice. In these circumstances, we find no infirmity in the impugned order. The appeals are dismissed.

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