FAX : 0532-2400149

REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 07/07/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70335-70336/2016-SM[BR] dated 16/06/2016

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the **Central Excise and Salt Act, 1944.**

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/1822-1823/2006	GOYAL SYNTHETICS PVT. LTD(100%) BLOCK NO 85, MOJI MOTA NEAR HIMSON,BORASARA, TAL MANGORL, SURAT.
		Name and Address of Respondent
2		-C.C.E. GHAZIABAD C.G. O. Complex-II, Kamla Nehru Nagar, Ghaziabad 201302

Other Appellants and Respondents as per Annexure

Copy To

3 Advocate(s) / Consultant(s):

K. K. Anand, Advocate
A-103, DEFENCE COLONY,
NEW DELHI,110024

4 Bar Association, CESTAT, Allahabad

5 Director Publications, Customs, Excise. I.P. Estate, Delhi

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, 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, Satellite Road, Ahmedabad-15

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

11 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

12 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

13 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

14 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

15 C.D.R. 16 Office Copy 17 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

Ex. Appeal Nos.1822,1823/06

Arising out of OIO No.30/Commr./GZB/2005 dated 25.11.2005 passed by Commr. of Central Excise, Ghaziabad.

For approval and signature:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

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1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? :
2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? :
3. Whether His Lordship wishes to see the fair copy of the Order? :
4. Whether Order is to be circulated to the Departmental Authorities? :

M/s Goyal Synthetics Pvt. Ltd.

...APPELLANT(S)

VERSUS

Commissioner of Central Excise, Ghaziabad

RESPONDENT (S)

APPEARANCE

Ms. Surabhi Sinha, Adv. for the Appellant (s)
Shri V.K.Shastri, A.C. (A.R.) for the Department

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

DATE OF HEARING & PRONOUNCEMENT : 26. 10. 2015

Final-ORDER NO. 70335-70336/2016

Per Mr. Anil Choudhary :

The Appellant, M/s Goyal Synthetics Pvt. Ltd., is in Appeal against Order-in-Original No. 30/Commr./GZB/2005 dated 25.11.2005 passed by Commr. of Central Excise, Ghaziabad whereby a penalty of Rs.Ten lakhs was imposed under section 112 of the Customs act read with rule 26 of Central Excise rules 2001.

2. At the outset the learned Counsel for the appellant points out that the impugned order have been passed in gross violation of the principles of natural justice. Pursuant to service of show cause notice, the date of hearing was fixed on 26/7/2005. The present appellant had requested for adjournment on the ground that the counsel was in personal difficulty. The next date was fixed on 4/10/2005 wherein notices were sent by speed post several notices, which were returned undelivered. It is pointed out that how the notice was sent to noticee number 8, the present appellant, the impugned order is silent. Neither is it mentioned that any notice sent to them was returned undelivered. Thereafter it is mentioned in the impugned order that notices on all the parties including the appellant was served by way of pasting on the office notice board of the learned Commissioner. Thereafter ex parte order dated 25/11/2005, was passed.

3. The learned Counsel urges that the condition precedent for service of substituted notice (by way of affixture) is absent. In such a case the notice served by pasting on the notice board of the respondent authority, is no notice. Accordingly it is prayed that the

impugned order be set aside, so far the present appellant is concerned, for passing of a fresh order in accordance with law after hearing the appellant.

4. The learned A.R. relies on the impugned order.

5. Having considered the rival contentions I find that there is lack of proper notice of hearing on the appellant, resulting into denial of opportunity of hearing. Thus there have been violations of the provisions for service of notice as well as miscarriage of justice. In this view of the matter the appeal is allowed by way of remand. The adjudicating authority is directed to pass a reasoned order after providing adequate opportunity of hearing to the appellant. The appellant is also directed to appear before the authority with their reply and all the documents they wish to rely upon, and seek an opportunity of hearing within a period of 60 days from the date of receipt of a copy of this order.

(Dictated and pronounced in the open Court)

Sd/-

(Anil Choudhary)
MEMBER (Judicial)

mm