REGISTERED / AD

FAX : 0532-2400149

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

Dated: 20/07/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70460-70464/2016-SM[BR] dated 15/07/2016

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/2614-2616/2012 &E/56588-56589/2013	**Commissioner of CUSTOMS-Kanpur** 117/7...SARVODYA NAGAR, KANPUR, UTTAR PRADESH 208005
		Name and Address of Respondent
2		PAN PARAG INDIA LTD 6 & 7, FAZALGANJ, KALPI ROAD, KANPUR.
3		BIHAR CARRY CO PVT LTD 133/165-P, RATTUPURVA, T.P. NAGAR, KANPUR.
4		SHRI VINOD SHARMA G M OF M/S PAN PARAG INDIA LTD. , 6 & 7, FAZALGANJ, KALPI ROAD, KANPUR.

Other Appellants and Respondents as per Annexure

Copy To
Advocate(s) / Consultant(s): SH K.K.ANAND,ADV
A-103, DEFENCE COLONY
NEW DELHI

13 Bar Association, CESTAT, Allahabad

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

15 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

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

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

18 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15

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

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

21 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad -- 38

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

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

24 C.D.R. 25 Office Copy 26 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL Nos.E/2614, 2615, 2616/2012 & 56588, 56589/2013-EX[SM]

(Arising out of Order-in-Appeal No. 321, 322 & 323-CE/APPL/KNP/2012 dated 27/12/2012 & 178-CE/APPL/KNP/2012 dated 24.05.2012 passed by Commissioner of Central Excise & Customs (Appeals), Kanpur)

For approval and signature:

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

1.	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
3.	Whether their Lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	Yes

Commissioner of Central Excise & S.T., Kanpur **Appellant**

Vs.

Pan Parag India Ltd.,

Shri Vinod Sharma G M Of,

Bihar Carry Co Pvt. Ltd, **Respondents**

Appearance:

Shri D.K. Deb, Assistant Commissioner (AR) for Appellant
Ms Surabhi Sinha, Advocate, for Respondents

CORAM:

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 15/07/2016
Date of Decision : 15/07/2016

FINAL ORDER NO. 70460-70464/2016

Per: Anil G. Shakkarwar

The brief facts of the case are that respondents were issued with a Show Cause Notice No. DGCEI/DZU/INV/CE/A/200/09/8-602 dated 25.4.2011 with a proposal for demand of Central Excise Duty of Rs.47,37,907/- from M/s Pan Parag India Ltd. and with a proposal for imposition of penalty on Shri Vinod Sharma and M/s Bihar Carrying Company Pvt. Ltd, Kanpur. The said Show Cause Notice was adjudicated through Order-in-Original No.28/ADC/CEX/2012 dated 30th March, 2012, wherein out of the demand of Rs.47,37,907/-, demand of Central Excise Duty of Rs.7,55,950/- was confirmed against M/s Pan Parag India Ltd. with equal penalty and interest. Vide the said original Order, the penalty was also imposed on M/s Bihar Carrying Company under Rule 26 of Central Excise Rules, 2002. M/s Pan Parag filed appeal before the Ld. Commissioner (Appeals), Kanpur against the said Order-in-Original dated 30th March, 2012, on 4th May, 2012. The said appeal was decided by the Ld. Commissioner (Appeals), Kanpur through Order-in-Appeal No.178-CE/APPL/KNP/2012 dated 24.05.2012. The said Order-in-Appeal dated 24.5.2012 is impugned order in Appeal Nos. E/2614, 2615 & 2616/2012. The said three appeals were filed by the Commissioner of Central Excise, Kanpur. The Commissioner (Appeals) through said Orders-in-Appeal dated 24.5.2012 held that the demand is not sustainable and is liable to be set aside and that the demand of interest and penalty were also set aside. After the issue of said Order-in-Appeal dated 24.05.2012, on 23.07.2012, Revenue filed appeal before the Ld. Commissioner (Appeals), Kanpur against the same Order-in-Original No.28/ADC/CEX/2012 dated 30.3.2012. The appeal filed by Revenue before Ld. Commissioner (Appeals), was against the respondent, M/s Pan Parag, Shri Vinod Sharma and M/s Bihar Carry Company Pvt. Ltd. The said appeals were given the Appeal Nos.172-174/APPL/KNP/2012. The said appeals were decided through Orders-in-Appeal No. 321,322,323-CE/APPL/KNP/2012 dt.27.12.2012 by the Ld. Commissioner (Appeals). The said Orders-in-Appeal dated 27.12.2012 has upheld to the Order-in-Original No.28/ADC/CEX/2012 dated 30.03.2012 and all the appeals filed by the Department, were rejected by the Ld. Commissioner (Appeals). The said Orders-in-Appeal dated 27.12.2012 is impugned Order-in-Appeals filed by the Commissioner of Central Excise, Kanpur, bearing Nos. E/56588 & 56589/2013.

2. The prayer of Commissioner of Central Excise, Kanpur in Appeal Nos. E/2614, 2615 & 2616/12, is to uphold the Order-in-Original No.28/ADC/CX/2012 dated 30.03.2012. The prayer of Commissioner of Central Excise, Kanpur in appeal Nos. E/56588 & 56589/13, to set aside Order-in-Appeal dated 27.12.2012, through which said Order-in-Original dated 30.03.2012 is upheld.

3. Heard the learned A.R. for Revenue. He reiterated the grounds of appeals.

4. The learned Counsel for the respondents argued that the said Order-in-Original dated 30.03.2012 was modified to that extent that the demand, interest and penalty were set aside. So in practical sense, so far as M/s Pan Parag India Pvt. Ltd. is concerned, the said Order-in-Appeal dated 24.05.2012, set aside the Order-in-Original dated 30.03.2012. By doctrine of merger, the said Order-in-Original dated 30.03.2012 was not available to Commissioner of Central Excise, Kanpur on 23.07.2012 for filing appeal against before Ld. Commissioner (Appeals). Therefore, Order-in-Appeal dated 27.12.2012 passed in Appeal Nos. 172-174/12 is infructuous and, therefore, the Appeal No. E/56588 & 56589/13 are not maintainable. So far as, Appeal No.2614, 2615 & 2616/12 are concerned, the duty confirmed in the said appeals is Rs.7,55,950/-, which is covered by the "Litigation Policy". She relied on pronouncement of Division Bench of this Tribunal in the case of CCE, Raipur Vs. HEG Ltd. wherein through Final Order No. A/52034/2016-EX(DB) dated 03.06.2016, Division Bench of this Tribunal has dismissed the appeal having Revenue less than Rs.10 lakhs as non-maintainable in terms of Litigation Policy of Government of India dated 17.12.2015.

5. I have considered the rival contentions. There is force in the argument putforth by learned counsel for the respondents. I, therefore, dismiss Appeal Nos. E/56588 & 56589/2013 as non-maintainable. Further, I dismiss the Appeal Nos. E/2614, 2615 & 2616/2012 as non-maintainable, since the Revenue involved is

less than Rs.10 lakhs and in terms of Litigation Policy of Government of India dated 17.12.2015, the same are not maintainable.

6. The above five appeals are disposed off in above terms with consequential relief, if any.

(Dictated in Court)

(Anil G. Shakkarwar)
Member (Technical)

akp

प्रमाणित प्रति / Certified True Copy

सहायक पंजीकार / Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण / (C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001