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: 03/02/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70126-70127/2017-SM[BR] dated 13/01/2017

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/1767/2008	C.C.E, KANPUR 117/7, Sarvodaya Nagar, Kanpur 208005.
2	E/1768/2008	C.C.E, KANPUR 117/7, Sarvodaya Nagar, Kanpur 208005.
		Name and Address of Respondent
3		SHRI VIKASH CHATURVEDI, DIRECTOR, M/S SHREE DATAWARE PVT. LTD. 862, PEM, MANDHANA, KANPUR. (U.P)
4		SHREE DATAWARE PVT. LTD. 862, PEM, MANDHANA,KANPUR. (U.P)

Other Appellants and Respondents as per Annexure

Copy To

5 Advocate(s) / Consultant(s):

AMIT AWASTHI
ADVOCATE
7/116A, H-1, 1ST FLOOR,
RADHEY APARTMENT,
SWAROOP NAGAR,
KANPUR- 208002

6 Bar Association, CESTAT, Allahabad

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

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

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

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

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

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

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

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

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

16 C.D.R. 17 Office Copy 18 Guard File

Asstt. Registrar

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

Appeal Nos.E/1767 & 1768/2008-EX[SM]

Arising out of Order-in-Appeal No.621/CE/APPL/KNP/06 dated 22.12.2006 passed by Commissioner (Appeals) Customs & Central Excise, Kanpur.

Commissioner of Central Excise, Kanpur ...APPELLANT(S)

VERSUS

Shree Datawares Pvt. Ltd. (in Appeal No.1767/2008)
Shri Vikash Chaturvedi, (in Appeal No.1768/2008) ...RESPONDENT (S)

APPEARANCE

Shri Rajeev Ranjan, Joint Commr. (AR) for the Department (s)

Shri Amit Awasthi, Advocate for the Respondent (s)

CORAM:

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

DATE OF HEARING & PRONOUNCEMENT: 13.01.2017

FINAL ORDER NO.- 70126-70127/2017

Per Mr. Anil Choudhary :

The issue in this appeal arose, vide show-cause-notice dated 29.11.2007, as it appeared to Revenue that the respondents are registered manufacturer engaged in manufacture of Manifold Business Forms & Interleaved Carbon Papers, falling under chapter heading No.4820 4000 of CETA, 1985. The respondents were of the view that there finished products fell under chapter 49, wherein the goods are not dutiable.

2. Heard the parties and perused the records.

3. It is seen that subsequently, the Chief Commissioner of Customs, Central excise and Service Tax, Lucknow, vide his communication No.V(30)CCO/LKO/Tech/12/2010/705 dated 12/02/2010 under the

subject – Classification of Continuous computer stationery in the form of Carbon Leaflet/Money Receipts; have clarified relying on Board's Circular No.11/91-CX. 4 dated 15.10.1991, have stated the entry of Chapter Heading 4820 reveals that it does not cover printed sheets, used for some specified purpose. In the instant case, the subject receipts are nothing but the printed separate sheets, running in length, used by specific customer (Sahara) for a specified purpose. Chapter 49 of the tariff exclusively covers the leaflets and similar matter and the subject receipts are nothing but the printed carbon leaflets. In fact, the subject item is more of a product of printing industry as the leaflets/receipts attains the usable form only after printing. To make it more elaborate, it is not merely the paper or stationery but the printing on it that gives it the worth, hence the subject item reflects more a member of Chapter 49, family compared to chapter 48. The Ld. Chief Commissioner also took notice that similar products were being classified under Chapter 49 in the other Commissionerates in the country.

5. Accordingly, following the classification by the learned Chief Commissioner office, the Commissioner of Customs, Central excise Kanpur vide communication dated 9th March, 2010 clarified to the respondent-assessee that in respect of the finished products manufactured by them namely money receipts for Sahara Parivar – Interleaved with Carbon was classifiable under Chapter Heading 4901. The learned counsel for the assessee have also relied on the order of the Ld. Commissioner (Appeals) dated 22.01.2010, wherein also the Commissioner (Appeals) in the assessee's own case

reported at 2010(261) E.L.T. 776 have held that the goods manufactured by the assessee are covered under chapter 49.

6. Having considered the rival contentions, clarification by the Chief Commissioner, I find that the very basis of the show-cause-notice that the finished products manufactured by the respondents are classifiable under Chapter 48 no longer exists. Accordingly, I hold that the order of the Ld. Commissioner (Appeals) impugned herein is correct and requires no interference. Accordingly, the appeals of Revenue are dismissed. The respondents will be entitled to consequential benefits in accordance with law.

(Dictated and Pronounced in the open Court)

Sd/-

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

Mishra

प्रमाणित प्रति / Certified True Copy
8.2.17
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