FAX : 0532-2400149

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

Dated: 20/09/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70838/2016-EX[DB] dated 08/09/2016

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/2624/2007	ANAND TISSUES LTD. VILL. FITKARI, MAWANA, DISTT. MEERUT
		Name and Address of Respondent
2		C.C.E. MEERUT I EXCISE CHOWK, UNIVERSITY ROAD, MANGAL PANDEY NAGAR, MEERUT - 250005.

Copy To

3 Advocate(s) / Consultant(s):

AALOK ARORA,ADV
82 - MISSION COMPOUND,
SAHARANPUR,
UTTAR PRADESH

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

27/10/16

ISSUED ON

SIGN. (DESPATCH SECTION)
CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
38, M. G. MARG, ALLAHABAD-211001.

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
<u>REGIONAL BENCH : ALLAHABAD</u>

<u>Appeal No. E/2624/2007-EX[DB]</u>

Arising out of Order-in-Appeal No.160-CE/MRT-I/2007 dated 8.8.2007 passed by Commissioner (Appeals), Customs & Central Excise, Meerut-I.

For approval and signature:

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

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	: No
2.	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	: Yes
3.	Whether His Lordship wishes to see the fair copy of the Order?	: Seen
4.	Whether Order is to be circulated to the Departmental Authorities?	: Yes

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Anand Tissues Ltd. ...APPELLANT

VERSUS

C.C.E., Meerut-I .....RESPONDENT

APPEARANCE

Shri Aalok Arora, Advocate for the Appellant
Shri Pawan Kumar Singh (Supdt.) (A.R.) for the Department

CORAM:

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

<u>DATE OF HEARING & PRONOUNCEMENT : 08.09.2016</u>

<u>FINAL ORDER NO. 70093/2016</u>

Per Mr. Anil Choudhary :

The issue in this appeal is whether for the purpose of availing of benefit of notification No. 6 of 2002, which provides for concessional rate of duty @ 8% up to first clearance of 3500 MT, for clearance by an industry of paper and paperboard or articles made there from manufactured starting from the stage of pulp in a factory and such pulp contains not less than 75% by weight of pulp made from other materials other than bamboo, hardwood, softwood, reeds (other than sarkanda) or rags subject to the further conditions that exemption shall apply only to paper and paperboard or articles made therefrom cleared for home consumption from a factory in any financial year up to first clearances of an aggregate quantity not exceeding 3500 MT. Further condition is exemption shall not be applicable to a manufacturer availing benefit under notification No. 8/2003-CE or the SSI ~~CCE~~ exemption. Further explanation provides ~~-~~for removal of doubts it is hereby clarified that the first clearances of an aggregate quantity not exceeding 3500 MTs shall not include clearances of any paper and paperboard or articles made there from which attract nil rate of duty or are exempt from the whole of excise duty under any other notification.

2. Revenue issued show cause notice dated 24/4/2006, as it appeared that the appellant was also clearing some goods to Nepal

and paid duty at the rate of 12% but the clearances made to Nepal were not added in the first clearances of 3500 MT made for home consumption and under concessional rate of duty. This was in view of the condition in notification No. 8/2003 dated 01/03/2003, as amended, that clearances made to Nepal and Bhutan will be considered as home consumption.

3. Heard the parties.

4. Having considered the rival contentions we find that the show cause notice is misconceived as a condition in another notification cannot be read into notification No. 6 of 2002 for the purpose of calculating the first clearances for home consumption unless there is such stipulation in notification No. 6/2002. In absence of such stipulation in notification No. 6/2002, we find that the show cause notice is misconceived and the impugned demand cannot be sustained. Accordingly, we allow the appeal and set aside the impugned orders. The appellant will be entitled for consequential benefit, if any, in accordance with law.

(Order was dictated in the open Court)

Sd/-
(ANIL G. SHAKKARWAR)
MEMBER (TECHNICAL)

Sd/-
(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

Patel/-

प्रमाणित प्रति / Certified True Copy
25.10
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