

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
OLD RED BUILDING, 38, M.G. Marg,
~~Office Of Commissioner Of Central Excise, Customs, Service Tax, Allahabad-211001~~**

Dated: 06/10/2015

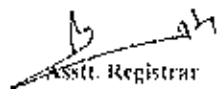
To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/ 70006 /2015- dated 15/09/2015

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

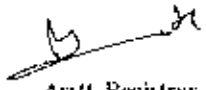
Application	Appent	Name and Address of Appellant
E/COD/319/07	1/7/10/2007	COMMISSIONER OF CENTRAL EXCISE,
	E/C/259/07	ALLAHABAD 38 M.G.MARG, CIVIL
		LINES, ALLAHABAD.

Name and Address of Respondent	TRIVENT STRUCTURALS LTD NAINI, ALLAHABAD.
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Other Appellants and Respondents as per Annexure

Copy To**3 Advocate(s) / Consultant(s):**

- 4 Bar Association, CESTAT, Delhi
- 5 Director Publications, Customs, Excise, I.P. Estate, Delhi
- 6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishan 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 Rohan Road, New Delhi-110005
- 9 Easy Service Tax Online 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 Hills, Punjagotta Hyderabad-500082
- 14 C.D.R. 15 Office Copy 16 Guard File


Asstt. Registrar
Regional Bench, Allahabad

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CIRCUIT BENCH AT ALAHABAD**

Application No. E/COD/319/2007 Appeal No. E/710/2007
E/CO/259/2007

(Arising out of Order-in-Appeal No. 136/CE/ALD/2006 dated 20.12.2006 passed by the Commissioner of Central Excise (Appeals), Allahabad).

For approval and signature:

Hon'ble Shri P.S. Pruthi, Member (Technical)
Hon'ble Shri S.S. Garg, Member (Judicial)

- =====
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 their Lordships wish to see the full copy of the order? : Seen
 4. Whether order is to be circulated to the Departmental authorities? : Yes
- =====

Commissioner of Central Excise, Allahabad Appellant

Vs.

M/s Triveni Structures Ltd. Respondent

Appearance:

Shri B.B. Sharma, Asslt. Commr. (AR) for Appellant

None

for Respondent

CORAM:

SHRI P.S. PRUTHI, MEMBER (TECHNICAL)
SHRI S.S. GARG, MEMBER (JUDICIAL)

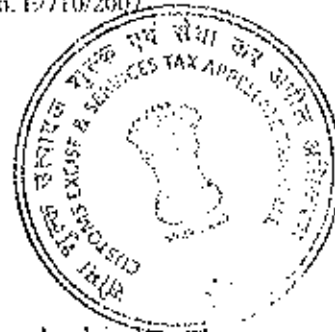
Date of Hearing: 15.09.2015

Date of Decision: 15.09.2015

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Final ORDER NO. 70006/2015

Per: P.S. Pruthi



This appeal is filed by the Revenue. The amount involved is less than ₹ 5,00,000/-.

2. We find that vide Board's letter P.No. 390/Misc/163/2010-JC dated 20.10.2010 read with Board's letter of even no. dated 17.8.2011, appeals are not required to be filed to CESTAT where the duty involved or total revenue including fine and penalty is Rs.5 lakhs or below, in case of appeals filed on or after 1.11.2010.

3. The learned AR placed before us a Supreme Court's decision in the case of *Commissioner of Income Tax Vs. Suman Dhamija - 2015-TIOL-195-SC-IT* in which the Hon'ble Apex Court held that "all the appeals were preferred prior to 2011, whereas, the instructions dated 9.2.2011 clearly indicate in paragraph 11 thereof, that they shall not govern cases which have been filed before 2011, and the same will govern only such cases which are filed after the issuance of the aforesaid instructions dated 9.2.2011." We note that this order relates to a dispute in Income Tax. We also note that unlike the instructions, governing Income Tax, the CBE&C instructions do not indicate that they shall not govern cases, which have been filed before 2011. There~~fore~~, being no such explicit instruction, we would place reliance on the Hon'ble Gujarat High Court's judgment in the case of *Commissioner of Central Excise, Surat-I vs. Shreenath Fabrics* reported in 2014 (303) ELT 540 (Guj.) holding that when the appeal was posted before the Court, the above cited Circulars were very much in force.

4. Therefore, keeping in view the fact that the amount involved is less

than ₹ 5,00,000/- and as per the litigation policy of the Government vide

Board's letter R.No. 390/Misc./163/2010-JC dated 17/08/2011 read

with Hon'ble Gujarat High Court's judgments in the case of

Commissioner of Central Excise, Surat-I vs. Shree Nath Fabrics (supra) and

in the case of Commissioner of Central Excise, Vadodwa-I vs. Pharamanra

Herbal Pvt. Ltd. reported in 2014 (306) EIT 153 (Guj.) and the judgment

of the Hon'ble Karnataka High Court in the case of Commissioner of

Central Excise, Bangalore-III vs. Presscom Products reported in 2011 (268)

ELT 344 (Kar.), the appeal of the Revenue is dismissed without going into

the merits of the case.

5. The Cross-Objection and COD application are also disposed of in

the above terms

(Dictated and pronounced in Court)

(S.S. Garg)
Member (Judicial)

(P.S. Pruthi)
Member (Technical)

14/10
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Number 150 / Certified True Copy
Registrar General / Asst. Registrar
Chennai, Bangalore and other
offices / (C.E.S.T.A.T.)
38, M.G. Road, ALAKAPAD-211001
38, M.G. Road, ALAKAPAD-211001