REGISTERED / AD

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

Dated: 06/10/2015

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/ 70017 /2015- dated 17/09/2015

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	Appeal	Name and Address of Appellant
	E/1626/2007 E/CO/267/07	COMMISSIONER OF CENTRAL EXCISE, LUCKNOW 7-A, ASHOK MARG, LUCKNOW

Name and Address of Respondent: REKAN EXTRUSION PVT LTD
CHAUDAGRA,G.T.ROAD,
FATEHPUR,
ALLAHABAD(UP)

Other Appellants and Respondents as per Annexure

Copy To

3Advocate(s) / Consultant(s): SH AMIT AWASTHI,ADV
7/116A,H-1, IST FLOOT,
RADHEY APARTENT
SWAROOP NAGAR,KANPUR

4 Bar Association, CESTAT, Delhi
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, Panjagutta 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 ALLAHABAD

Appeal No. E/1626/2007
E/CO/267/2007

(Arising out of Order-in-Appeal No. 23-CE/LKO/2007 dated 09.03.2007 passed by the Commissioner of Central Excise & Service Tax (Appeals), Lucknow).

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 fair copy of the order?	:	Seen
4.	Whether order is to be circulated to the Departmental authorities?	:	Yes

Commissioner of Central Excise, Lucknow — Appellant

Vs.

M/s Rekan Extrusions Pvt. Ltd. — Respondent

Appearance:

Shri B.B. Sharma, Asstt. Commr. (AR) — for Appellant

Shri Bipin Garg, Advocate — for Respondent

CORAM:

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

Date of Hearing: 17.09.2015

Date of Decision: 17.09.2015

Final ORDER NO. 70017/2015

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 F.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 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 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 F.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. Shreenath Fabrics (supra)* and in the case of *Commissioner of Central Excise, Vadodara-I vs. Pharmanza Herbal Pvt. Ltd.* reported in *2014 (306) ELT 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 is also disposed of.

(Dictated and pronounced in Court)

Sd/-
(S.S. Garg)
Member (Judicial)

Sd/-
(P.S. Pruthi)
Member (Technical)

प्रमाणित प्रति / Certified True Copy
15.10.15
सहायक पंजीयक / 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