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: 28/11/2017

To

Appellant as per address in table below
Respondent as per address in table below

Final Order No. A/71680/2017-EX[DB] dated 25/07/2017

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/1247/2011	**ANAND TRIPLEX BOARD LTD.** 9TH KM, MAWANA ROAD, VILLAGE-SAINI, DISTT. MEERUT (U.P.)
		Name and Address of Respondent
2		-C.C.E. MEERUT I Excise Chowk,Opposite Choudhary Charan Singh University Mangal Panday Nagar, Meerut - 250005.

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

Atul Gupta (Adv.), ALD
3/1A/3 OPP AUTO SALES,Above the Office Of Blue Dart/DHL Courier, COLVIN ROAD, LOHIA MARG ALLAHABAD-211001

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, Opp ICICI Bank of Defence Colony 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 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

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

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

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

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

14 C.D.R. 15 Office Copy 16 Second Folder Copy 17 Guard File

Asstt. Registrar

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

APPEAL No. E/1247/2011-EX[DB]

(Arising out of Order-in-Original No. 03/Commr./MRT-I/2011 dated 31/01/2011 passed by Commissioner of Central Excise & Customs, Meerut-I)

M/s Anand Triplex Board Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Meerut-I **Respondent**

Appearance:

Shri Atul Gupta, Advocate, for Appellant
Shri Sandeep Kumar Singh, Deputy Commissioner (AR), for Respondent

CORAM:

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

Date of Hearing & Date of Decision: 25/07/2017

FINAL ORDER NO....71680/2017.......

Per: Anil Choudhary

The issue raised in this appeal is, squarely covered by the ruling of this Tribunal – Northern Regional Bench, New Delhi in the case of Nachiketa Papers Ltd. *Versus* Commissioner of Central Excise, Chandigarh-I reported at 2004 (170) E.L.T. 61 (Tri. – Delhi), is whether they are entitled to claim the benefit of nil rate of duty in respect of paper products classified under Heading 4801.00 of the Schedule to the Central Excise Tariff Act, 1985. Newsprint under Chapter Note-4 in Chapter 48 is defined as under:-

"for the purpose of this Chapter, "newsprint" means newsprint as defined by the Central Government by Notification published in the Official Gazette."

Furthermore, the Central Government under Notification No. 23/98-C.E., dated 1-8-98 has defined "Newsprint" for the purposes of Chapter 48 as under :-

"In exercise of the power conferred by Note 3 to Chapter 48 of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), the Central Government, hereby defines 'newsprint' for the purposes of the said Chapter 48, as paper of a kind, -

(a) intended for the printing of newspapers; and

(b) manufactured by a manufacturer of newsprint specified under Schedule I of the Newsprint Control Order, 1962", and supplied against a purchase order placed upon such manufacturer by a newspaper which is registered by the Registrar of Newspapers for India under the provisions of the Press & Registration of Books Act, 1867.

It is the case of the appellants that they filed an application for being included under Schedule I of the Newsprint Control Order on 23rd December, 1999. After due process of the application, the appellant got themselves registered for being included in the Schedule I of the N.C.O. vide Notification dated 04/05/2000.

2. The appellants have made clearances from September, 2008 to 30/12/2008. In respect of clearances made prior to September, 2008 the appellant is not claiming any benefit of Nil rate of duty provided under the Schedule under the Central Excise Tariff Act, 1985 as Newsprint. The contention is that once the appellant is notified, the benefit of the same is available from the date of its application. In support of the above contention, the appellant relied on the ratio of the decision of the Supreme Court in *CCE* v. *M.P.V. Engg. Industries* [2003 (153) E.L.T. 485].

3. In the above decision, Hon'ble Supreme Court had occasion to consider the relevant date on which a unit registered as an SSI unit will be entitled to claim the benefit of Notification No. 175/86-C.E.

4. After referring to decisions rendered under different statutes, the Hon'ble Supreme Court held as follows :-

> "However, once it is found that the industry qualifies as a small scale industry, in the matter of grant of exemption a liberal approach is permissible if it does no violence to the language of the notification. In a case of this nature it is only reasonable to take the view that the benefit of exemption will accrue to a unit found to be a small scale industrial unit from the date on which the application was made for grant of registration certificate. Such a unit should not be deprived of the benefit to which it is otherwise

entitled as a small scale industrial unit merely because the authorities concerned took their own item in disposing of the application. We, therefore, agree with the majority view of the Tribunal and hold that the benefit of exemption under the notification in question should be extended to the respondent with effect from the date on which the application for grant of registration was made by it before the competent authority. This is also in accord with the principle which found favour with the Court in *State of U.P. & Annr.* v. *Haji Ismail Noor Mohammad & Co.* and the *Assessing Authority & Ors.* v. *Patiala Biscuits Manufacturers Pvt. Ltd.* (supra)".

5. We find that there is merit in the contention of the appellant that the ratio of the above decision should be applied in the facts of the present case. It is seen that there is no dispute that the applicant has made the relevant application on 23rd December, 1999. A communication addressed to the applicant dated 5th Jan., 2000 by the Under Secretary to Govt. of India, Ministry of Industry refers to their application for inclusion of their name in the Schedule-I to the Newspaper Control Order, 1962. The above letter suggests certain clarifications which, according to the appellant, were submitted in time.

6. Accordingly, we find that the issue is squarely covered by the ruling of this Tribunal – Northern Bench, New Delhi in

the case of Nachiketa Papers Ltd. *Versus* Commissioner of Central Excise, Chandigarh-I (Supra). To sum up, we allow this appeal and set aside the impugned Order-in-Original. The appellant shall be entitled for consequential relief, if any, in accordance with law.

(Dictated and pronounced in Court)

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

-Sd/-
(ANIL CHOUDHARY)
Member(JUDICIAL)

Ansari

प्रमाणित प्रति/Certified True Copy
28/12/17
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