FAX : 011-26108426 REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066
CUSTOMS APPEAL BRANCH

Dated: **19/06/2015**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **C/A/51813/2015-CU[DB]** dated **08/06/2015**

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section **129-A(4) of the Customs Act, 1962.**

Asstt. Registrar(CUSTOMS Appeal Branch)

Application	Appeal	Name and Address of Appellant
1 C/Stay/53551/2014	C/53155/2014	**T W Exports P Ltd** M-131, Greater Kailash, Part-ii, NEW DELHI DELHI 110048
		Name and Address of Respondent
2		C.C.-New Delhi(air Cargo Export) NEW CUSTOM HOUSE, NEW DELHI, DELHI-

Copy To

3Advocate(s) / Consultant(s):

Asmita A. Nayak & Ranjeet K. Ranjan Adv.
D-619, Ist Floor, C.R. Park,
Market No.2,
NEW DELHI-110019

4 Additional Party's Name & Address :
5 Bar Association, CESTAT, Delhi
6 Director Publications, Customs, Excise. I.P. Estate, Delhi
7 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3
8 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17
9 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005
10 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15
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 C.D.R. 15 Office Copy 16 Guard File

Asstt. Registrar(CUSTOMS Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing/decision: 8.6.2015

Stay Application No.53551 of 2014 in Customs Appeal No.53155 of 2014

Arising out of the order in appeal No.CC(A(CUS/354/2014 dated 28.2.2014 passed by the Commissioner (Appeals), Customs, New Delhi.

For approval and signature:

Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. R.K.Singh, Technical Member

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 26 of the CESTAT (Procedure) Rules, 1982?	
2	Whether it should be released under Rule 26 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3	Whether their Lordships wish to see the fair copy of the Order?	
4	Whether Order is to be circulated to the Departmental authorities?	

T.W. Exports Pvt. Ltd. .. Appellant

Vs.

C.C., New Delhi .... Respondent

Appearance:

Present Shri Ranjit Ranjan, Advocate for the appellant
Present Mrs. Suchitra Sharma, A.R. for the respondent

Coram: Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. R.K. Singh, Technical Member

Final Order No. 51813 /2015

Per Justice G. Raghuram:

The appeal is preferred against the order dated 28.2.2014 passed by ld. the Commissioner of Customs (Appeals), New Custom

House, New Delhi. The appellant herein is the assessee and the appeal was preferred against the order-in-original dated 22.4.2013 passed by the Additional Commissioner of Customs, New Delhi. The primary adjudication order directed enforcement of the Bond furnished by the appellant whereby an amount of Rs.11,60,00,000/- being the Customs Duty on the goods imported would be recovered under Section 143(3) of the Customs Act, 1962 along with interest and penalty as specified in the primary order.

2. By the impugned order, the ld. appellate Commissioner directed deposit of Rs.11 lakhs under Section 129E of the Customs Act , 1962 by 20th March, 2014, failing which the appeal would be disposed of appropriately. The lower appellate authority noted that the appellant sought time on several occasions since 2011-2012 to submit the Export Obligation Discharge Certificate and the appellant failed to provide the Certificate as required under Notification No.93/2004.

3. Even before us today, Counsel for the appellant submits that the Export Obligation Discharge Certificate was not yet issued and it is not known when it would be issued. If the appellant has a grievance that there is inordinate and inexplicable delay on the part of the concerned authority in issuing the Export Obligation Discharge Certificate, the appellant is at liberty to pursue appropriate remedies for a direction to the appropriate authority to issue the Export Obligation Discharge Certificate expeditiously. The appeal preferred before the lower appellate authority cannot however await determination indefinitely till the Export Obligation Discharge Certificate is issued in the fullness of indeterminate time.

3. For the aforesaid reasons, we find no merit in the appeal and it is accordingly dismissed. The appellant shall pre-deposit the amount as directed by the impugned order within four weeks from today. On such deposit the lower appellate authority shall consider and dispose

of the appeal on merits. If no such pre-deposit is made within the time stipulated herein, the lower appellate authority shall dispose of the appeal preferred by the appellant herein, in accordance with law.

(Justice G. Raghuram)
President

(R.K. Singh)
Technical Member

scd/