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

Dated: **02/02/2015**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **C/A/50219/2015-CU[DB]** dated **21/01/2015**

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/30/2009	IMPEL ELECTRONICS, C-137, NARAINA INDUSTRIAL AREA, PHASE-I, NEW DELHI.,, ,
		Name and Address of Respondent
2		-C.C. NEW DELHI (IMPORT & GENERAL) NEW CUSTOM HOUSE, NEAR I.G.I. AIRPORT, NEW DELHI 110037.,

COPY TO

3 Bar Association, CESTAT, Delhi

4 Director Publications, Customs, Excise. I.P. Estate, Delhi

5 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

6 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

7 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

8 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15

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 C.D.R. **13** Office Copy **14** Guard File

Asstt. Registrar(CUSTOMS Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Order : 21.1.2015

Appeal No. C/30/2009-CU(DB)

[Arising out of Order-in-Appeal No. CC(A)/I&G/387/08 dated 10.10.2008 passed by the Commissioner of Customs (Appeals), New Delhi]

For Approval & Signature :

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

1.	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2.	Whether it would be released under Rule 27 of the 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 Department Authorities?	

M/s Impel Electronics — Appellant

Vs.

CC, New Delhi — Respondent

Appearance:

None - for the Appellant

Shri B.B. Sharma, D.R. - for the Respondent

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

F. Order No. 50219/2015

Per **R.K. Singh :**

The appellants filed this appeal against order in appeal dated 10.10.2008 which upheld the order-in-original dated 24.9.2008.

2. The issue briefly stated, is as under :

The appellants imported goods falling under chapter 85 and declared them as "Model KD-G 396UD Brand JVC MP3/CD receiver" in the relevant Bill of Entry and claimed the benefit of Notification No. 21/2002-Cus as amended (Sl No. 539) and Notification No. 6/2006-CEX as amended (Sl No. 21). Both the notifications prescribe concessional rate of duty for the goods falling under CTH 85 namely, MP3 or MP4 or MPEG4 player with or without radio or video reception facility. The concerned Assessing Officer, after consulting the relevant catalogue, as per which the goods are described as CD receiver with front USB and AUX/CD receiver with front AUX, denied the benefit of the said notifications on the ground that the goods imported were CD player having an additional feature for playing MP-3 format. The appellants have contended that the goods are essentially MP-3 players and that they should be allowed the benefit of the said exemption notifications.

3. No one appeared for hearing, when the case was posted nor any request for adjournment was received. Consequently in the wake of the order of pre-deposit in the case of ***Balaji Steel Re-Rolling Mills Vs. CCE*** - 2014 (310) ELT 209 (SC), to the effect that CESTAT should not dismiss the appeal for non-prosecution and ought to decide appeal on merit even if appellant or its Counsel is not present, the appeal is being decided on merit.

4. As is evident from the foregoing, the issue involved is whether the impugned goods are CD receivers or MP-3 players. The Commissioner (Appeals) has categorically stated that as per the catalogue goods have been described as CD receiver with front USB and AUX/CD received with front AUX. The write up in the catalogue also stated that "you can also play/enjoy MP-3". Thus, it is evident that the goods cannot be called MP-3 players. As the exemption under Notification No. 21/2002-CUS as amended and Notification No. 6/2006-CEX as amended is available to MP-3 and MP-4 MEPG 4 players with or without radio or video reception facility, it is evident that the impugned goods are not eligible for the benefit of the said notifications. In these circumstances, we do not find any infirmity with the impugned order. The appeal is therefore rejected.

Justice G. Raghuram)
(President)

(R.K. Singh)
Member (Technical)

RM