

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

Dated: 29/10/2015

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. C/A/53268/2015-CU[DB] dated 28/10/2015

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/77/2010	C/13/2010	New Custom House, Near I.G.I. Airport, new Delhi 110037.

2	Name and Address of Respondent SPICE MOBILES LTD. D-4, Okhla, Phase-I, New Delhi,,
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Copy To

3 Advocate(s) / Consultant(s):

**V. Lakshmi Kumaran
5, Jangpura Extension,
Link Road,
New Delhi-110014**

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

15 C.D.R. 16 Office Copy 17 Guard File


Asstt. Registrar(CUSTOMS Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. 1

Date of hearing/decision: 28.10.2015

For Approval and Signature:

Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. C. J. Mathew, Member (Technical)

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?	

Customs Appeal No. 13 of 2010
(Arising out of order-in-appeal No.CC(A) CUS/I&G/233/09 dated 06.11.2009
passed by the Commissioner of Customs, New Custom House, New Delhi).

CC (Preventive), New Delhi

Appellant

Vs.

M/s Spice Mobiles Limited

Respondent

Appearance:

Shri Satyaveer Singh, Chief Commissioner (AR) for the appellant
Shri S. Vasudevan, Advocate for the Respondent

Coram: Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. C. J. Mathew, Member (Technical)

Final Order No. 53268/2015

Per: Justice G. Raghuram:

Appeal is preferred against the order dated 06.11.2009 of the Commissioner of Customs (Appeals), New Delhi. The impugned order rejected Revenue's appeal preferred against the primary adjudication order dated 28.08.2009, to the extent the order directed recovery of the demurrage on goods of the respondent which were seized, from Shri Ram Kumar, on whose complaint proceedings were initiated for confiscation of imported goods and imposition of duty and penalty under the Customs Act, 1962. The primary adjudication order further directed that such demurrage charges should be reimbursed to the respondent but could be recovered from Shri Ram Kumar. The impugned order did not find any infirmity that the order passed by the primary adjudicating authority, in an appeal preferred by Revenue.

2. In an identical matrix of facts, presented in ***Commissioner of Customs, New Delhi vs. Brightpoint India Pvt. Limited – 2015-TIOL-1840-CESTAT-DEL***, Revenue appeal was dismissed. For the detailed analyses and reasons stated in the above judgment, we find no merit in this appeal. It is accordingly dismissed. No costs.


(Justice G. Raghuram)
President


(C. J. Mathew)
Member (Technical)

Pant