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: **20/05/2015**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **C/A/51624/2015-CU[DB]** dated **13/05/2015**

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/795/2010	C/142/2010	**APIS INDIA LIMITED** Village-Bhoglan, Bhoglan Road, Rajpura, Punjab.
			Name and Address of Respondent
2			-C.C. (ICD) NEW DELHI ICD, Tughlakabad, New Delhi 110020.

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

Piyush Kumar,Adv
B-25, Lajpat Nagar - III,
New Delhi
Delhi

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 No. 1

Date of hearing/decision: 13.05.2015

For Approval and 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 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. 142 of 2010

(Arising out of order in appeal No. CC (A) Cus. ICD/01/2010 dated 04.01.2010 passed by the Commissioner of Customs (Appeals), New Custom House, New Delhi)

M/s APIS India Limited — Appellant

Vs.

CC (Appeals), ICD, Tughlakabad — Respondent

Appearance:

Shri Piyush Kumar, Advocate for the appellant
Sh. M. R. Sharma, DR for the Respondent

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

Final Order No. 51624/2015

Per: Justice G. Raghuram:

The appellant is the assessee, aggrieved by the order-in-appeal dated 04.01.2010 passed by the Commissioner of Customs (Appeals), New Delhi whereby its appeal was dismissed for non-compliance of pre-deposit ordered by that Authority on 09.11.2009 as a condition for hearing the appeal.

2. The appellant herein imported raw honey without payment of duty in terms of Notification No. 32/97-Cus dated 01.04.1997. The Notification enjoins a condition, that for availment of benefits therein the goods should have been supplied free of cost by the foreign supplier. Admittedly, the appellant received the goods on payment of commercial consideration remitted to the foreign supplier, in foreign exchange.

3. In the circumstances, a show cause notice was issued and after due process the Assistant Commissioner of Customs (BOND), ICD Tughlakabad, New Delhi by the order dated 25.06.2009 confirmed Customs Duty demand for Rs.1,14,66,076/- alongwith interest, for violation of the condition of Notification No. 32/97-Cus; directed appropriation of Rs.5 lakhs deposited on 20.05.2009 as partial payment of the duty liability assessed alongwith interest.

3. Aggrieved, the appellant preferred an appeal. The application for waiver of pre-deposit was scheduled for hearing on three dates whereat there was no appearance. Therefore, an interim order dated 09.11.2009

was passed directing pre-deposit of Rs. 1 crore within thirty days. Eventually, the appeal was heard and by the order impugned, the learned appellate Commissioner dismissed the appeal for non-compliance of the interim pre-deposit order, dated on 09.11.2009.

4. In the circumstances, we are not required to go into the substantive merits of the impugned lower appellate order and into the question whether the confirmed demand of duty was valid in the circumstances. The order of the learned Commissioner (Appeals) impugned herein, dismissing the appeal for failure of pre-deposit ordered, in terms of Section 129E of the Customs Act, 1962 is impeccable and warrants no appellate interference. Appeal is dismissed. No costs.

(Justice G. Raghuram)
President

(R. K. Singh)
Member (Technical)

Pant