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: 04/12/2015

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **C/A/53554/2015-CU[DB]** dated **18/11/2015**

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/2548/2010	C/476/2010	MULTI INSTRUMENTS LTD C-48, SHIVALIK, NEW DELHI-110017
			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 Advocate(s) / Consultant(s):

Mohan Lal, Adv.
B-67, Flatted Factires Complex,
Okhala Phase-III,
Delhi-110020

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)

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

Date of Hearing/Order : 18.11.2015

Appeal No. C/476/2010-CU(DB)

(Arising out of Order-in-Appeal No. CC(A) I&G/58/10 dated 3.6.2010 passed by the Commissioner of Customs (Appeals), New Delhi)

For Approval & Signature :

Hon'ble Mr. R.K. Singh, Member (Technical)
Hon'ble Ms. Sulekha Beevi, C.S., Member (Judicial)

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 Multi Instruments Ltd. — Appellant

Vs.

CC, New Delhi — Respondent

Appearance:

None - for the Appellant

Shri R. Gupta, D.R. - for the Respondent

Coram : **Hon'ble Mr. R.K. Singh, Member (Technical)**
Hon'ble Ms. Sulekha Beevi, C.S., Member (Judicial)

F. Order No. 53554/2015

Per **R.K. Singh :**

Appeal is filed against order in appeal dated 3.6.2010 which upheld ~~that~~ order in original dated 23.11.2009 in terms of which the benefit of Sr. No. 9 of Notification No. 17/2001-Cus. was denied to the items imported by the appellant viz. single mirror gonio lens and

4 mirror mini gonio lens on the ground that these are not covered under Sr. No. 9 of list 30 appended to Notification No. 17/2001-Cus.

2. The appellant in its appeal has contended that the impugned goods are eligible for the benefit of exemption Notification No. 17/2001-Cus. and inter alia submitted a letter from Dr. Rajendra Prasad, Centre for Ophthalmic Sciences, New Delhi in support of its claim.

3. When the case is called today there is no representation on behalf of the appellant nor is there any request for adjournment. Accordingly, we proceed to decide the appeal on merit.

4. The ld. DR states that the exemption is very specific and exemption notification has to be interpreted strictly.

5. We have considered the contentions of DR and the pleas taken by the appellant in its appeal. We find that Sr. No. 9 of list 30 appended to Notification No. 17/2001-Cus exempts gonioscope, 3 mirror lens, special lenses for laser delivery, special diagnostic lenses (14D, 20D, 90D), Endo lens. Thus only '3 mirror lens' is mentioned in the said notification while the impugned goods on which exemption has been denied are single mirror gonio lens and 4 mirror mini gonio lens. Obviously having regard to the fact that only

3 mirror lens was eligible for exemption, the impugned goods are clearly not covered within the scope of Sr. No 9 of list 30 of the said exemption notification. It has been held by the Hon'ble Supreme Court in the case of ***CCE Pondicherry Vs. Honda Siel Power Products*** - 2015 (323) ELT 644 (SC) that "it is trite that exemption notifications are to be construed strictly and even if there is any doubt, same is to be given in favour of the department". The letter issued by Dr. Rajendra Prasad Centre for Ophthalmic Sciences, New Delhi enclosed with the appeal merely states that single mirror lens, 3 mirror universal 18 mm OD and 4 mirror mini gonio LR are all gonioscopes for ~~use including~~ viewing the angle of the eye in case of glaucoma. The said letter in effect acknowledges that these three type of lenses are separately identified. Thus the said ~~certificate~~ letter does not come to the rescue of the appellant.

5. In the light of the foregoing, we do not find any infirmity in the impugned order. The appeal is dismissed.

(R.K. Singh)
Member (Technical)

Sulekha Beevi

(Sulekha Beevi, C.S.)
Member (Judicial)

RM