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: 07/10/2015

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **C/A/53059/2015-CU[DB]** dated **02/09/2015**

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/560/2010	**PUNJ LIOYD LTD.,** CORPORATE OFFICE II, 95 INSTITUTIONAL AREA, SECTOR-32, GURGAON.
		Name and Address of Respondent
2		-C.C. (EXPORT) NEW DELHI Air Cargo Export, New Custom House, New Delhi 110037

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

Economic LawS Practic At Delhi
OFFICE NO. 801 A, 8TH FLOOR KONNECTUS TOWERS, TOWER A, BHAVBHUTI MARG, OPP. AJMERI GATE, NEW DELHI AILWAY STATION, NEAR MINTO BRIDGE, NEW DELHI-110002
CENTRE, BARAKHAMBA LANE,
NEW 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 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 02.09.2015

For Approval &Signature :

Hon'ble Hon'ble 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?	No
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
3.	Whether Lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	Yes

Appeal No.C/560/2010-CU[DB]
[Arising out of Order-in-Appeal No.CC(A)/Exp/92/10, dated 16.07.2010 passed by the C.C.(Appeals), New Delhi]

M/s. Punj Lloyd Ltd. — Appellant

Vs.

C.C., New Delhi — Respondent

Appearance
Mr.Udit Jain, Advocate - for the appellant
Ms. Suchitra Sharma, DR - for the respondent

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

Final Order No. 53059/2015, dated 02.09.2015

Per Mr. R.K. Singh :

Appeal is filed against Order-in-Appeal dated 16.07.2010 in terms of which the benefit of Notification No.20/2006-Cus, dated 01.06.2006 exempting special additional duty (SAD) was denied.

2. The facts of the case are as under:-

The appellant imported goods under 12 Bills of Entry and claimed exemption from basic customs duty and countervailing duty under Notification No. 54/2003-Cus dated 01.04.2003 on the strength of the duty-free service entitlement credit certificate. However it was required to pay in cash SAD leviable under section 3 (5) of the Customs Tariff Act, 1975 on the ground that the said duty could not be debited to duty-free service entitlement credit certificates and the benefit of Notification No. 20/2006 – Cus was not allowed to the appellant. On appeal, filed before the Commissioner (Appeals), the Commissioner (Appeals) upheld Order-in-Original on the ground that the benefit of Notification No. 20/2006–Cus for SAD was available only when the goods were exempt from whole of basic custom duty and additional duty of customs (CVD) leviable under section 3 (1) of the

Customs Tariff Act, 1975 without any condition and that in the present case the said exemption was subject to the condition that the said duties are debited to duty-free service entitlement credit certificate.

3. The appellant has contended that Notification 54/2003–Cus fully exempted basic customs duty and CVD and therefore it was entitled to the benefit of Notification No. 20/2000-ST and cited the judgement in the case of ***Gujarat Ambuja Exports Ltd. Vs. Union of India [2013 (288) ELT 49 (Guj)]***.

4. Ld. Departmental Representative supported the impugned order.

5. We have considered the contentions of both sides. We find that by virtue of Notification No. 20/2006–Cus, the Govt of India granted exemption from payment of SAD. The relevant portion of the said Notification is reproduced below:-

Sr. No.	Chapter, heading, sub-heading or tariff item of the First Schedule	Description of goods	Standard rate
1	2	3	4
1	Any Chapter	All goods which are exempt from the whole of the duty of customs	Nil

		leviable thereon or in case of which "Free" or "Nil" rates of duty of customs are specified in column (4) under the First Schedule of the Customs Tariff Act, 1975 (51 of 1975) and which are also exempt from the whole of additional duty of customs leviable thereon under sub-section (1) of Section 3 of the said Act, or on which no amount of the said additional duties of customs is payable for any reason.	

we find that the only condition for exemption from SAD in Notification 20/2006–Cus is that the goods should be exempt from payment of basic customs duty and countervailing duty (leviable under section 3 (1) of the Customs Tariff Act, 1975) the above quoted language of the exemption notification no where ~~very~~ states that the exemption should be unconditional. It is a fact that vide Notification No.54/2003–Cus, basic customs duty and countervailing duty [under Section 3 (1) of the Customs Tariff Act, 1975] were exempted during the relevant period. [Indeed w.e.f. 19.12.2006 even ~~the~~ SAD leviable under section 3 (5) of Customs Tariff Act, 1975 was also exempted under Notification No.54/2003–Cus but as the Bills of Entry in this case were of date prior to 19.12.2006, this is of no relevance for the present case]. However, the fact remains that during the relevant period the impugned goods were fully exempt from basic custom duty as well as CVD [leviable under section 3 (1) of Customs Tariff Act, 1975] and consequently, they (i.e., the impugned goods) were entitled to the benefit of Notification No.20/2006 – Cus. Indeed in a similar set of circumstances in the case of ***Gujarat Ambuja Exports Ltd. Vs. Union of India*** (supra), Gujarat High Court held that the import goods were entitled to the benefit of Notification No.20/2006–Cust when they (imported goods) were exempt from duty under notification No. 45/2002–Cus when imported under DEPB scheme (where the duty is debited to the duty entitlement pass book). The ratio of this judgement is clearly applicable to the present case.

5. In the light of the foregoing, we allow the appeal and remand the case to the primary adjudicating authority for granting consequential relief to the appellant subject to the condition that the burden of SAD has not been passed on by the appellant to any other person.

(Justice G. Raghuram)
President

(R.K. Singh)
Member (Technical)

SSK