

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

Appeal No. E/2599/2007in e/s/2251/2007 ex

Date 28/12/2007

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S INTERSCAPE
236, BLUE ROSE INDLESTATE, NEAR CABLE
CORPORATION, WESTERN EXPRESS HIGHWAY,
BOKIWALI(E), MUMBAI
400066

M/S INTERSCAPE

Appellant

C.C.E. JAIPUR I

STAY ORDER NO. 1179/07

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 632/07 Excise
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

dated 17-12-07


Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

C.C.E. JAIPUR I

N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME,
JAIPUR 302005.

2. Adv. / Consult

SH. R. WAGLAY, ADV.,
403, EMCA HOUSE, 289, SHAHID BHAGATSINGH
ROAD, FORT, MUMBAI - 1

3. S.D.R.

~~4. J.C.D.R.~~

5. Bar association, CESTAT, New Delhi

6. M/s. Deeparchi Publications, M-93, marg, 43, saket, New

7. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah

8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301

9. R. Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -

10. Nidheshak publications, LP.Estate, new Delhi


11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,

12. Co, Law Institution

13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070

14. Office Copy

15. Guard file


Assistant Registrar
(Excise Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT No.II

E/S 2251/07, E/A No.2599/2007

(Arising out of order in appeal No.80-81/GRM/CE/JPR.I/07 dated 3.4.07
passed by the Commissioner of Central Excise (Appeals), Jaipur)

For approval and signature:

Hon'ble Mr.S.S. Kang, Vice President)
Hon'ble Mr. K.K. Agarwal, Member(Technical)

1. Whether Press reporters may be allowed to see the order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?
 2. Whether it should 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 Departmental authorities?
-

M/s.Interscape

Appellant
(Rep. by Shri R. Waglay, Advocate)

Vs

CCE, Jaipur-I

Respondent
(Rep. by Shri C.S. Rajput,DR)

Coram: Hon'ble Mr. S.S. Kang, Vice President
Hon'ble Mr. K.K. Agarwal, Member(Technical)

Date of Hearing: 17.12.2007

Final Order No.632/2007 EX
STAY ORDER No. 1179/2007 EX
Per S.S. Kang:-

Heard both sides. The applicant filed this application for waiver of pre-deposit of duty of Rs.8,56,497/- and penalty of equal amount.

The appellants fabricate certain items and revenue is of the view that the same are furniture and asked for duty. The contention of appellant is that items in question are Vanity Counter, MDF Dado, Wardrobe, Luggage Rack, Minor panelling on Wall and Counter for bowl wash basin. The contention is that all the goods are permanently fixed with the walls and they cannot be removed as such, therefore, not liable to duty. The contention is that Hon'ble Supreme Court in the case of Craft Interiors Pvt Ltd reported in 2006 (203) ELT 529 held that the item which cannot be assembled or removed in complete or semi-knocked condition, are not liable for duty as furniture. The contention is that the appellants cited this judgement before the Commissioner (Appeals) in support of their claim and that the Commissioner (Appeals) has not given any finding in this regard.

The contention of revenue is that as per Chapter Note 2 of Chapter 94 of the Tariff, the cup boards, book cases, other shelved furniture is classifiable as furniture even if they are designed to be ^{hinged} fixed to the wall or stand one on the other.

We find that in this case, the contention of appellant is that the goods fabricated by them are permanently fixed with the wall and the same cannot be removed as such and this contention was raised before the Commissioner (Appeals) and also relied upon the decision of the Supreme Court in the case of Craft Interiors Pvt Ltd supra. We find that the Commissioner (Appeals) has not given any finding in this regard. In these circumstances, we find that it is a fit case for reconsideration by the Commissioner (Appeals) after taking into consideration the pleas raised by the appellants. The impugned order is set aside after waiving pre-deposit of duty and penalty and the

Commissioner(Appeals) to decide afresh after affording an opportunity of hearing to the appellants. The appeal is disposed of by way of remand.

-(Order dictated and pronounced in the open Court.)

(K.K. Agarwal)
Member(Tech)
MPS

(S.S. Kang)
Vice President