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

E/S/1540/07 in

EXCISE APPEAL BRANCH

Appeal No. E/1912/2007

Date 21/08/2007

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

To :
M/S DATA ENTERPRISES
B-65, SECTOR-2, NOIDA, U.P.

M/S DATA ENTERPRISES

C.C.E. NOIDA

Appellant

Vs
Respondent

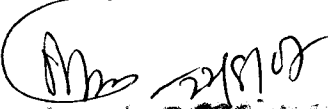
STAY ORDER No. 882/07-EX.

I am directed to transmit herewith a certified copy of Final order No. *452/07-EX.* dated
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
C.C.E. NOIDA
B-123, SECTOR 5, NOIDA
2. Adv. / Consult
MR.K.K ANAND
A-5, BASEMENT, LAJPAT NAGAR-III NEW DELHI-24
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, I.P.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 Kuni, New Delhi - 110070
14. Office Copy
15. Guard file


Assistant Registrar
(Excise Appeal Branch)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI**

**PRINCIPAL BENCH NEW DELHI
COURT NO.III**

Appeal No.E/1912/07-EX. And E/S/1540/07-EX.

(Arising out of the Order-in-appeal No34/CE/APPL/NOIDA/07. dated 30.3.2007 passed by the Commissioner (Appeals), Central Excise, Noida).

For approval and signature:

Hon'ble Mr. C.N.B. Nair, Member(Technical)

Hon'ble Mr. P.K. Das, Member(Judicial)



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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.Data Enterprises.

Appellants.

Versus

CCE, Noida.

Respondent

Appearance

Shri K.K. Anand, Advocate for the appellants.

Shri V.K. Agarwal, Authorized Representative (DR) for the respondent.

**CORAM: Hon'ble Mr. C.N.B. Nair, Member (Technical).
Hon'ble Mr. P.K.Das, Member(Judicial)**

Date of decision:31.7.2007.

Final Order No. 452/07EX
STAY order No. 882/07EX

Per C.N.B. Nair:

Heard both sides and perused the record.

2. It is seen that duty demand is being made without supplying the relevant documents to the appellant, ~~for~~^{or} consideration of submissions made by it. In this view of the matter, the appeal itself is required to be allowed by way of remand. Accordingly, we waive the requirement of pre-deposit and proceed with the appeal.

3. The duty demand is in respect of radio cassette recorders manufactured by the appellant. Under the Order-in-appeal No.467/98 dated 25.8.98, the Commissioner (Appeals) had directed fresh adjudication after supplying the copies of the relevant documents. He had also noted that duty demand was confirmed without considering the appellant's contention that appropriate duty (Notification No.57/93) had been paid at the time of clearance of the goods.

4. It is seen that the present order has been passed without giving the appellant copies of the relevant documents for

considering the contention relating to ^{payment} determination of duty at the appropriate rate. The demand so made cannot be sustained.

5. In the result, the impugned order is set aside and the case is remanded to the Original Authority for fresh adjudication after giving copies of relevant documents and ^{thereafter} opportunity to present ^{his} case both through written reply and hearing. The question of limitation shall also be considered in the said proceedings.

6. The appeal stands allowed by way of remand.

(Dictated and pronounced in open court).

(C.N.B. Nair)
Member(T)

(P.K. Das)
Member(J).

(rcs).