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

Appeal No. E/171 -72/2008 Date 28/03/2008
E/S/199-200/08

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

To :
M/S FRONTIER SPRINGS LTD.
E-14, PANKI INDUSTRIAL AREA, SITE - 1, KANPUR, UP

M/S FRONTIER SPRINGS LTD. Appellant
Vs
C.C.E. KANPUR Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 106-107/08 **Excise** dated 29-2-08
S.O. 271-72/08
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. KANPUR
117/7. SARVODAYA NAGAR, KANPUR 208005.
2. Adv. / Consult
MR.V. LAXMIKUMARAN
B-6/10. SAFDARJUNG ENCLAVE, NEW DELHI-110029
3. CDR.
4. ~~JCDR.~~
5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, marg. 43, saket, New
7. M/s Centax Publictions (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 Kunj, New Delhi - 110070
14. Office Copy
15. Guard file

Assistant Registrar
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

Excise Stay No. 199-200 of 2008 in Appeal No. 171-172 of 2008-Ex.

(Arising out of Order-in-Appeal No. 353-CE/APPL/KNP/2007 dated 31.10.2007 passed by the Commissioner, Customs & Central Excise, Kanpur)

For approval and signature

HON'BLE MR. S.S. KANG, VICE PRESIDENT
HON'BLE MR. M. VEERAIYAN, 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?**	no
2.	**Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?**	no
3.	**Whether their Lordships wish to see the fair copy of the order?**	yes
4.	**Whether order is to be circulated to the Departmental authorities.**	no

M/s Frontier Springs Ltd. — Appellant

Vs.

CCE, Kanpur — Respondent

Appearance:
Shri Ravi Raghvan, Advocate - For appellant
Shri V.K. Agarwal, SDR - For respondent

CORAM:
HON'BLE MR. S.S. KANG, VICE PRESIDENT
HON'BLE MR. M. VEERAIYAN, MEMBER (TECHNICAL)

Date of Hearing: 29.2.2008

Final Order No. 105-07/08-Ex dated 29.2.08
Stay order No. 271-72/08-Ex

Per S.S. Kang:

Heard both sides.

2. Common issue is involved, therefore, the stay petitions are taken up together.

3. The applicant filed these applications for waiver of pre-deposit of duties and penalties. The demands were confirmed after denying the benefit of Notification No. 63/95-CE dated 16.3.95.

4. The contention of the applicant is that the Commissioner (Appeals) in the impugned orders denying the benefit of notification on the ground that the parts supplied by the applicant to M/s Bharat Earth Movers Ltd. are not used in the manufacture of specified vehicles mentioned in the notification.

5. The contention of the applicant is that the parts are cleared to M/s Bharat Earth Movers Ltd. in November 2004 to January 2005 and during this period the notification provides exemption to all the goods which are manufactured by M/s Bharat Earth Movers Ltd. The contention is that as the provisions of notification does not restrict the exemption

to specify motor and motor vehicles, therefore, the benefit of notification was wrongly denied.

6. The contention of the Revenue is that the applicants are independent manufacturers and cleared the manufactured goods to M/s Bharat Earth Movers Ltd. The contention is that the notification in question provides exemption to the goods manufactured by M/s Bharat Earth Movers Ltd for supply to the Ministry of Defence, therefore, the applicants are not entitled for the benefit of notification.

7. In response to the argument of Revenue, the applicant submitted that there is board's circular dated 7.11.03 which clarifies that the benefit of earlier Notification No. 184/86 is available also to the vendor and job worker of M/s Bharat Earth Movers Ltd.

8. We find that in this case in the impugned orders, Commissioner (Appeals) relied upon the provisions of notification which was not in existence during the period November 2004 to January 2005. In view of this, we find that the matter requires reconsideration by the

Commissioner (Appeals). The impugned orders are set aside after waiving the pre-deposit of duties and penalties and matter is remanded to the Commissioner (Appeals) to decide the issue of eligibility of the applicant afresh in view of the provisions of relevant notification during the period November 2004 and January 2005 and after affording an opportunity of hearing to the appellants. The appeals are disposed of by way of remand.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

(M. VEERAIYAN)
MEMBER (TECHNICAL)

RM