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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/26 /2008
E/S/29/08

Date 01/04/2008

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

To :
M/S PARSHWA ACCESSORIES PVT. LTD.
GP-50, SEC.18, [MARUTI INDUSTRIAL ESTATE,
GURGAON

M/S PARSHWA ACCESSORIES PVT. LTD. Appellant

Vs

C.C.E. DELHI III Respondent

I am directed to transmit herewith a certified copy of **Final order No.** **117/08 & S/278/08** **8-S/278/08** **Excise** dated 12-3-08 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. DELHI III
   UDYOG MINAR, UDYOG VIHAR, VANIJYA NIKUNJ,
   PHASE V, GURGAON - 122016 (HARYANA)
2. Adv. / Consult SH. R.K. HASIJA, ADV., B-6/10, S.J. ENCLAVE, N. DELHI-29
3. S.D.R.
4. ~~CDR.~~
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, WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI

COURT – II

E/STAY APPLICATION NO. 29/2008 IN & EXCISE APPEAL No. 26 OF 2008-DB

[Arising out of Order-in-Appeal No. 440/KKG/GGN/2007 dated 27.09.2007 passed by the Commissioner (Appeals), Central Excise, Delhi-III, Gurgaon]

For approval and signature:

Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. Rakesh Kumar, 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 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 Departmental authorities?	

M/s. Parshwa Accessories Pvt. Ltd. — Appellants

Vs.

CCE, Delhi-III — Respondent

Appearance:

Shri R.K. Hasija, Advocate for the appellants
Shri Deepak Garg, SDR for the Revenue

Coram:

Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. Rakesh Kumar, Member (Technical)

Date of Hearing:12rd March, 2008

FINAL ORDER NO. 117/08-Ex dated 12-3-08
Stay order No. 278/08-Ex

Per S.S. Kang:

The applicants filed this stay application for waiver of pre-deposit of Rs. 28,16,228/- and penalties. Demand is confirmed on the ground that the applicants are manufacturing lace. The case of the applicants is that they are not manufacturing lace, but manufacturing braid which is liable for nil rate of duty.

2. Contention of the applicants is that before Commissioner (Appeals) they raised the issue that in case demand is confirmed the applicants ~~are~~ would be entitled for benefit of Cenvat Credit in respect of duty paid on imported capital goods and inputs. Contention is that, if the benefit of Cenvat credit is allowed the remaining demand comes around Rs. 50,000/-. Contention of the Revenue is that the Commissioner (Appeals) has not gone into the merit of the case as the appeal has been dismissed for non-compliance. Contention is also that the applicants are manufacturing and clearing lace, therefore, demand is rightly made.

3. In view of the facts and circumstances of the case the applicants are directed to deposit Rs. 50,000/- for hearing of the appeal.

4. We find that the Commissioner (Appeals) dismissed the appeal, filed by the appellants, for non-compliance of Section 35F of the Central Excise Act. The Commissioner (Appeals) has not gone into the merits of the case. Therefore, impugned order is set aside and the matter is remanded back to the Commissioner (appeals) to decide the appeal on merit in accordance with law on compliance of the above direction to deposit Rs. 50,000/-. Appeal is disposed off by way of remand.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

Dated 14th March, 2008

RK