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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/494-501/08&E/440-443/08WITHE/S/474-481/08&E/S/417,420-422/08   Date 03/06/2008

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

To :
M/S GARG CONCAST LTD.
G.T.ROAD,
LUDHIANA (PB)
M/S GARG CONCAST LTD.   Appellant

Vs
C.C.E. LUDHIANA   STAY ORDER NO. 481-488 & 488A-488D/08   Respondent

I am directed to transmit herewith a certified copy of **Final order** No.252-259/08,259A-259D/08 **Excise** dated 16-4-08

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. LUDHIANA
   CENTRAL EXCISE HOUSE. 'F' BLOCK. RISHI NAGAR. LUDHIANA 141001 (PUNJAB)
2. Adv. / Consult
   MR.KAMALJEET SINGH
   J-144, PATEL NAGAR -I.GHAZIABAD.
   2. SH. V. SWAMINATHAN, ADV.,
   G-50, LAJPAT NAGAR-III,
   N. DELHI-24
3. CDR.
4. ~~J.C.D.R.~~
5. Bar association. CESTAT. New Delhi
6. M/s. Deeparchi Publications. M-93. Marg. 46. Saket. New Delhi 110017
7. M/s Centax Publictions (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
8. Excise & Customs cases, B-37. Sector -1. NOIDA - 201301 Gautam Budh Nagar, (U.P.)
9. Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10. Nidheshak publications. I.P.Estate. new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
12. Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88). Thyagaraya Road, T. Nagar,Chennai 60017
13. Taxindiaonline.com Pvt.Ltd. B-XI/8183,Vasant Kunj. New Delhi - 110070
14. Office Copy
15. Guard file

Assistant Registrar
(Excise Appeal Branch)

P. T. O.

2. SH. VINOD GARG, DIRECTOR
M/S. GARG CONCAST LTD.
577 B, AGGAR NAGAR,
FEROZEPUR ROAD, LUDHIANA

3. SH. MOHD IKHLAQ C/O M/S. GARG CONCAST LTD.,
G.T. ROAD, DORAHA, DISTT. LUDHIANA

4. M/S. ADHUNIK ALLOYS LTD.,
VILL. GARHI TARKANA, P.O. MACHIWARA,
DISTT. LUDHIANA

5. SH. N.D. GARG, M/S. ADHUNIK ALLOYS LTD.,
577 B, AGGAR NAGAR, FEROZEPUR ROAD,
LUDHIANA

6. SH. N.D. GARG, C/O. M/S. GARG CONCAST LTD.,
577 B, AGGAR NAGAR, FEROZEPUR ROAD,
LUDHIANA

7. SH. VINOD GARG, C/O M/S. ADHUNIK ALLOYS LTD.,
577-B, AGGAR NAGAR, FEROZEPUR ROAD,
LUDHIANA

8. SH. DARBARA SINGH, C/O M/S. ADHUNIK ALLOYS
PVT. LTD., VILL. GARHI TARKHANA,
P.O. MACHIWARA, DISTT. LUDHIANA

12. SH. SAMIR ANAND,

11. SH. G.C. ARYA,

9. M/S. ALLIANCE PETROLEUMS (P) LTD.
NO. 43, 3RD FLOOR, COMMUNITY CENTRE,
BASANT LOK, VASANT VIHAR, N. DELHI-57

10. SH. G.L. KHANNA & SONS,
65, SHARDHANAND MARG, DELHI-6

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R.K.Puram, New Delhi-110066.
Principal Bench, New Delhi.

E/A/440-43/08 with E/S/417, 420 to 422/08

Excise Appeal Nos.494-501/08 with E/S/474-481/08

[Arising out of Order-in-Appeal No.689,695,693,679,680,694,681,682,691,683,690,696/CE/CHD/LDH/2007 dt.5/7.12.07 passed by Commissioner(Appeals),Chandigarh)

For approval and signature:
Hob'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 Department Authorities:	:

M/s. Garg Concast Ltd. & Others
M/s. Alliance Petroleums — Appellant

Versus

CCE, Ludhiana — Respondent

Appearance

S/Sh. Kamaljeet Singh with V.Swamynathan, Advs. For Appellant

Sh. A.N.Sharma,Authorised DepartmentalRepresentative(JCDR)For Respondent

Coram: Hon'ble Mr. S.S.KANG, VICE PRESIDEN
Hon'ble Mr. RAKESH KUMAR, MEMBER TECHNICAL

FINAL ORDER 259A TO 259-D

Date of decision: 16.4.08

FINAL Order No. 252 - 259 / 08-EX

STAY ORDER NO. 481 - 488 / 08-EX

STAY ORDER NO 488-A TO 488-D

Per S.S.Kang:

Heard both sides. Common issue is involved in these orders, therefore, they are being taken up together. The applicant filed these applications for waiver of pre-deposit of duties and penalties. The appeals filed by the applicants were dismissed for non-compliance to the provisions of Section 35F of Central Excise Act as the applicants had not complied with the condition of the stay orders.

2. The contention of the applicant is that during the hearing of stay applications, they filed written submissions and raised various issues. The issues raised by the applicants were not considered while passing the stay orders. In this situation, subsequently on receipt of the stay order, the applicants filed applications for modification of the stay orders. The applications for modification of stay orders were rejected while dismissing the appeal without affording an opportunity of hearing to the appellants. The only contention of the applicant is that before deciding the modification of application, opportunity of personal hearing should have granted to the applicants.

3. The contention of the revenue is that the Commissioner(Appeals) after going through the evidence on record, asked the applicant to deposit

very nominal amount compared to the demand confirmed by the adjudicating authority and the applicant failed to comply with the condition of the stay orders, therefore, the appeals are rightly dismissed.

4. We find that admittedly the applicant filed the application for modification of the stay order and the application for modification of stay order was rejected by impugned order and the appeals are dismissed. No opportunity of hearing was granted before dismissing the application for modification of the stay order. In these circumstances, we find merit in the application, therefore, the impugned order is set aside and the matter is remanded to the Commissioner(Appeals) to decide the application for modification of stay order after affording an opportunity of hearing to the appellants.

5. The appeals are disposed of by way of remand.

Order dictated in the open Court.

(S.S.Kang)
Vice President

(Rakesh Kumar)
Member Technical

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