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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/4025/2004,4614/2004

Date . 04/08/2008

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

To :
M/S C. BASE COMPUTRINICS
5- CLASSIC APPARTMENT, WRIGHT TOWN,
JABALPUR, M.P.
M/S C. BASE COMPUTRINICS

Appellant
Vs
Respondent

C.C.E. BHOPAL

Excise dated 29.7.08

I am directed to transmit herewith a certified copy of **Final order No**. 540-541/08 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. BHOPAL
   48, ADMINISTRATIVE AREA, AREA HILLS, HOSHANGABAD ROAD, BHOPAL (M.P.)
2. Adv. / Consult SH. ATUL GUPTA, C.S. 40
   MR.R.K. CHAUDHRY
   B-1/1289-A, VASANT KUNJ, NEW DELHI-110070
3. C.D.R.
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
16. EASY SERVICE TAX.

Assistant Registrar
(Excise Appeal Branch)

1 ~~SHRI AJAY KHATWANI, PROPRIETOR M/S C-BASE COMPUTER~~
~~5-CLASSIC APPARTMENTS, WRIGHT TOWN, JABALPUR (M.P.)~~

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

Excise Appeals No.4025 & 4614 of 2004-Ex Branch

[Arising out of Order-in-Appeal No.414/CE/BPL/2004 dated 10.06.2004 passed by the Commissioner of Central Excise (Appeals), Bhopal (M.P.)]

Date of Hearing/ Decision:29.07.2008

For approval and signature:
Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K. Das, Member (Judicial)

1. Whether Press Reporters may be allowed to see CESTAT (Procedure) Rules, 1982. NO
2. Whether it should 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? : Seen
4. Whether Order is to be circulated to the Departmental authorities? : Yes

M/s. C. Base Computronics ...Appellants / Respondent
[Rep. by Shri Atul Gupta, Company Secretary]

Vs.

CCE, Bhopal ...Respondent / Appellant
[Rep. by Shri H.K. Thaper, Jt.CDR]

CORAM: Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr.P.K. Das, Member (Judicial)

Final Order No. 540-541/08-Ex /Dated:29.07.2008

Per M. Veeraiyan:

These two appeals, one by the party and the other by the Department, are against the Commissioner's (Appeals) Order dated 10.06.04.

2. Heard both sides .

3. Ld. Advocate on behalf of the party, M/s. C. Base Computronics submits that they are purchasing computer parts as well as fully manufactured computers and selling the same to various parties either as parts or as computers, as the case may be. He further submits that they have not undertaken any assembly of the computers. The Panchnama also does not indicate that there was any manufacturing activity at the time of visit by the officers. No inclulpatry statement, that they have been manufacturing the computers, have been given by any of the concerned persons.

4. Ld. DR on behalf of the Department submits that only bills and invoices were recovered and as per the bills and invoices, they have sold the assembled computers under their own brand name. He also submits that there is no evidence of manufacturing activity at the time of visit by the officers and that no statement inculpat~~ing~~ in nature has been given by the concerned persons.

5. The demand of duty is basically on the presumption that the assessee herein has assembled the computers and sold them. No reliable evidence has been shown to us to come to this conclusion.

6. The appeal by the party is ~~held~~ to be allowed. As we are allowing the appeal by the party, the appeal of the Department for imposition of mandatory penalty is without any merit and the same is rejected. The appeals are disposed of as above.

Order dictated & pronounced in open court on 29.7.2008.

(M. Veeraiyan)
Member (Technical)

(P.K. Das)
Member (Judicial)

Ckp.