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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/2509/2008-2515/2008 - EX[DB] Date 19/01/2009

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

To :
M/S BIRLA AIRCON
149, OLD DELHI CHUNGI, DELHI ROAD, MEERUT U.P

M/S BIRLA AIRCON Appellant
Vs
C.E.E. MEERUT I Respondent

I am directed to transmit herewith a certified copy of **Final order No** 41-47/09 & S.O.NO.47-53/09 **EX[DB]** dated 14-1-09

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. MEERUT I
   EXCISE CHOWK, UNIVERSITY ROAD, MANGAL PANDEY NAGAR, MEERUT - 250005.
2. Adv. / Consult
   MR.V K AGGARWAL
   B-82, LAJPAT NAGAR, PART-2, NEW DELHI-110024

3 S.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 - 3
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
13 Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
14 Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
15 Office Copy
16 Guard file

Assistant Registrar
(Excise Appeal Branch)

17. M/S NAVEEN REFRIGERATION
D-I, SABUN GODOWN , MALIANA, MEERUT

P.T.O. - 2.

18. BEECO ELECTRICALS (INDIA)
280 DELHI ROAD, MEERUT

19. M/S BEECO REFRIGERATIN
35/15, CHAMELI SADAN, DELHI ROAD,MEERUT

20. M/S MONIKA SERVICE CENTRE
296, SHARDA ROAD, DELHI ROAD,MEERUT

21. M/S NAVEEN ELECTRICALS,
149-A , OLD DELHI CHUNGI, DELHI ROAD, MEERUT, U.P.

22. SHRI PRAVEEN KUMAR JAIN,PARTNER
M/S BIRLA AIRCON, 149, OLD DELHI CHUNGI, DELHI ROAD,
MEERUT U.P.

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

E/Stay 2513 to 2519/08, E/Appeal No.2509-2515/2008 -Ex(Br)

(Arising out of order in original No.22/Comm/Meerut.1/08 dated 27.8.08 passed by the Commissioner of Central Excise (Appeals), Meerut)

M/s Birla Aircon — Appellant
(Rep. by V.K. Agarwal, Advocate)

Vs

CCE, Meerut-I — Respondent
(Rep. by Shri A.K. Rastogi, DR)

Coram: Hon'ble Mr.D.N. Panda, Judicial Member
Hon'ble Mr. Rakesh Kumar, Technical Member

STAY ORDER NO 47-53/09-EX Date of Hearing: 7.1.09

FINAL Order No. 41-47/ — /2009-Ex(BR)

Per D.N. Panda:

Learned Counsel Shri V.K. Agarwal submits that the appellants are aggrieved for failure to examine corroborative evidence in respect of modvatable inputs used in the goods manufactured. He submits that the authorities should reconcile the evidence which are huge in quantity to grant relief and bring the litigation to an end. But without reconciliation, repeated litigations have been developed by Revenue. He fairly submits that the appellant shall cooperate if a direction is given for reconciliation. He therefore, prays that pending the stay application, an interim direction may be issued for reconciliation at the grass root level to do justice to both the sides.

2. The learned DR submits that the appellant was given several opportunities, but they have failed to make reconciliation of discrepancy alleged. Therefore, they should make pre-deposit.

3. Heard both the sides and perused the record.

We have gone through para 3 of order of adjudication where there is an appreciation that there are several documents at the assessee's manufacturing premises which need scrutiny. In para 5 of order of adjudication, the Authority below has thrown light on non-cooperative attitude of appellant and para 5.1 shows that the appellant is not prepared to avail any opportunity. Looking to the gravity of the situation and repeated litigation made by both litigants, we direct that both sides should cooperate with the learned Commissioner who shall fix a date any time during February, 2009 for commencing reconciliation of disputed documents. The appellants should fully cooperate with Revenue and plead its defence before the scrutinizing officers for reconciliation. Upon reconciliation is complete, we require the learned Commissioner to send a report by end of April, 2009 with his comments and on receipt of such remand report, we shall proceed further. Till that date, we direct that the stay application should lie over on record.

4. With the aforesaid direction and without any inclination to remand the matter to the lower authorities in view of fourth round of litigation before us, both sides are expected to avail aforesaid

last opportunity to reduce their litigation, otherwise the matter shall reach its logical conclusion. The learned Commissioner should do well to examine whether a copy of remand report should be given to the appellant since the appellant may lead its defence on the basis of examination conducted.

(Order dictated and pronounced in the open Court).

(D.N. Panda)
Judicial Member

(Rakesh Kumar
Technical Member

MPS*