

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

Appeal No. E/2375 & 2391/2008 - EX[DB] & E/S/2369 & 2393/2008-EX

Date 20/01/2009

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

To :
M/S SCIENTECH TECHNOLOGIES PVT. LTD.
94-101, ELECTRONIC COMPLEX, PARDESHIPURA,
INDORE.
M/S SCIENTECH TECHNOLOGIES PVT. LTD.

2. M/S, NVIS TECHNOLOGIES,
141 B & 141 C/1, ELECTRONIC
COMPLEX, PARDESHIPURA,
INDORE

Appellant

Vs
Respondent

C.C.E. INDORE

I am directed to transmit herewith a certified copy of Final order No.48-49/2009 & S.O.NO.60-61/09EX[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. INDORE

MANIK BAGH PALACE, POST BOX NO. 10, INDORE 452001 (M.P.)

2. Adv. / Consult

MR.V. LAXMIKUMARAN

B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029

3 S.D.R

~~4 I.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 Publications (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

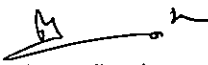
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar, Chennai

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

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Assistant Registrar
(Excise Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
BENCH - Excise

E/S/2369/08 in E/2375/08
E/S/2393/08 in E/2391/08

(Arising out of Order-in-Appeal No.IND-1/148-149/2008
dt.27.8.2008 passed by the Coimmissioner(Appeals), Indore)

M/s. Sciencetech Technologies Pvt. Ltd.
M/s. Nvis Technologies

Appellant

Vs

CCE, Indore

Respondent

Appeared for Appellant : Sh. Ravi Raghvan, Adv.

Appeared for Respondent: Sh. R.K.Verma, DR

Coram : Hon'ble Mr. D.N.PANDA, JUDICIAL MEMBER
Hon'ble Mr. RAKESH KUMAR, MEMBER TECHNICAL

STA X Date of Hearing: 12.1.09 / 09-EX
Order No. 60-61 / 09-EX Date
Final ORDER NO. 48-49 / 09-EX
Per D.N.Panda:

Ld. Counsel Shri Ravi Raghvan appearing for the appellant submits that the impugned order is without any reason and also not a speaking order. Ld. Commissioner abruptly came to the conclusion that the case is in favour of the Revenue when he framed the issue in para 5 of the order. He submits that what that may be the case when the question of clubbing was in issue, the authority should have examined all the parameters to arrive at a decision. When the decision lacks reason that becomes unsustainable. The appellant may, therefore, be dispensed with the pre-deposit.

2. Ld. DR appearing on behalf of the Revenue supports the order of the authority below and submits that the appellant's questionable conduct only called for clubbing of clearances.

3. Heard both the sides carefully. Although we do not prefer to remand matters at the stage of hearing of stay application for pre-deposit, this is a fit case compelling us to dispense with the pre-deposit when the impugned order has neither given reasons of decision nor demonstrates how the justice has been done to the appellant. Therefore, we dispense with pre-deposit and also dispose the appeal remanding the matter to the Id. appellate authority to examine the issue framed by him in para 5 of the appellate order and hear the appellant thoroughly as well as consider the submissions of the appellant. It is open for the appellant to lead entire evidence and plead its case including the question of law before that authority for his defence. The appellate authority below should pass a speaking order stating reasons of his decision. The appellants shall have right to fair opportunity of hearing to meet the ends of justice.

4. In the result, we dispose the stay application dispensing pre-deposit and remand the matter to the Id. appellate authority to do justice to both the sides, setting aside the impugned order.

5. In view of our decision above, we also propose that the appeal case No.2391/08 fixed today for stay hearing at S.No.5 of the list also stands disposed by way remand in the manner of aforesaid dispensing pre-deposit and setting aside the impugned order.

Order dictated in the open Court.

(D.N.Panda)
Judicial Member

(Rakesh Kumar)
Member Technical

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