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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/166 /2009-167 /2009,208 /2009-209 /2009 - EX[DB] Date 09/03/2009
E/S/171-172,201-202/2009-EX

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

To :
M/S BIO VEDA RESEARCH LAB PVT. LTD.
D-97, 98, 105, 106, PHASE-II, NOIDA.
M/S BIO VEDA RESEARCH LAB PVT. LTD. Appellant
Vs
C.C.E. NOIDA STAY ORDER NO.257-260/2009-EX Respondent

I am directed to transmit herewith a certified copy of **Final order** No. 218-221/2009- **EX[DB]** dated 25-2-09
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. NOIDA
OFFICE OF COMMISSIONER OF CUSTOMS,CENTRAL EXCISE AND SERVICE TAX, C-56/42, SECTOR-62, NOIDA - 201307
2. Adv. / Consult
MR.K.K ANAND
A-5,BASEMENT,LAJPAT NAGAR-III NEW DELHI-24

2. SH. PREM RANJAN, ADV.,
10/62, VIKRAM VIHAR,
LAJPAT NAGAR - IV, N. DELHI -

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 - 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
17. SHRI R. K. SINGH,
M/S BIO VEDA RESEARCH LAB PVT. LTD., D-97, 98, 105, 106,
PHASE-II, NOIDA.

Assistant Registrar
(Excise Appeal Branch)

P.T.O. - 2,

18, SMT. VINEETA JAIN, DIRECTOR OF
M/S BIO VEDA RESEARCH LAB PVT. LTD.
D-97,98, 105, 106,
PHASE-II, NOIDA.

19, SHRI RAGHVENDRA JHA,
M/S BIO VEDA RESEARCH LAB PVT. LTD.D-97, 98, 105, 106,
PHASE-II, NOIDA.

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. III

Excise Stay Application Nos. 171-172, 201-202 of 2009
Excise Appeal Nos. 166-167, 208-209 of 2009

[Arising out of Order-in-Original No. 35/Comm/NOIDA/2008 dated 29.8.2008 passed by Commissioner of Central Excise, NOIDA.]

For approval and signature:

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

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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 should 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? : No.
4. Whether Order is to be circulated to the Departmental authorities? : Yes.

M/s. Bio Veda Research Lab Pvt. Ltd. — Appellants
Shri Vineeta Jain
Shri Raghvendra Jha
Shri R.K. Singh

Vs.

Commissioner of Central Excise — Respondent
NOIDA

Appearance:

Shri K.K. Anand and Shri Prem Ranjan, Advocates for the Appellant
Mr. A.K. Rastogi, DR for the Respondent

CORAM:

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

Date of Hearing/Decision: 25.2.2009

STAY **ORDER NO.** 257-260/09-EX
FINAL ORDER NO 218-221/09-EX

Per P.K.Das (for the Bench):

After hearing both the sides we take up the appeals for final disposal after granting stay.

2. Learned advocate for the appellant submits that the impugned order was passed without providing legible copies of some of relied upon documents. He also submits that by hearing notice dated 7.8.08, Commissioner fixed the date of hearing on 14.8.08, 20.8.08 and 21.8.08. So the contention of the learned advocate is that proper hearing was not granted. He relied upon the decision of the Tribunal in the case of Afloat Textiles (P) Ltd. vs. CCE, Vapi [2007 (215) ELT 198 (Tri-Ahmd)]. He also submits that the assessee is entitled to get the relied upon as well as non relied upon documents for filing the reply to the show cause notice. He relied upon the following decisions:

1) Novamet Industries vs. Union of India
[2008 (227)ELT 363 (All.)

2) Silicon Graphics System (India) Pvt. Ltd. vs. Union of India
[2006 (204) ELT 247 (Bom.)

3) Anand Steel Rolling Works Pvt.Ltd. vs CCE Ahmedabad
[2008 (229) ELT 67 (Tri-Admd.]

3. Learned DR submits that the Commissioner had given sufficient opportunity to collect the relied upon as well as non-relied upon documents which they have not collected and they have also not attended the personal hearing. He also submits that they are already got the copy of the panchnama at the time of seizure. Therefore, the request of the learned advocate seeking legible copy of panchnama is not sustainable.

4. After hearing both the sides and on perusal of the records, we find that by letter dated 7.8.08, the Commissioner fixed the hearing for three days. In the said letter, the appellant was also directed to collect RUD as mentioned in the show cause notice and non RUD. We find that case involves voluminous records and documents. We appreciate the submission of the learned Advocate that the defence reply cannot be made out in a short time as noted in the hearing notice dated 7.8.08. We also note that the contention of the learned advocate that legible copy of the panchnama not supplied is not correct. It is revealed from the copy of the panchnama that the said copy already been provided to the appellant at the time of seizure.

5. After considering the facts and circumstances of the case, we find that the appellant should be given an opportunity to collect the copy of RUD and non-RUD as ~~collect~~ contended by the learned advocate. In view of that, we set aside the impugned order and matter is remanded to the Commissioner to

decide the matter afresh. In this connection we direct all the appellants to appear before the Commissioner on 15.4.2009 to inspect the RUD and non-RUD and to take necessary copies thereof. All the appeals are allowed by way of remand.

(Dictated & Pronounced in the open Court)

(M. Veeraiyan)
Member(Technical)

(P.K.Das)
Member(Judicial)

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