

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

Appeal No. E/537 /2009 - EX[DB] & E/538/2009
E/S/539/09-EX & E/S/540/09-EX

Date 05/05/2009

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

To :
M/S ALUMAYER INDIA PVT. LTD. ← 2. SH.RAJ KUMAR DAD,(EX. M.) C/O
D-401, TTC INDUSTRIAL ESTATE, VILLAGE SHRVANE, M/S.ALUMAYER INDIA PVT.LTD.,
URBAN PHATA, NERUL, MUMBAI-400706.
M/S ALUMAYER INDIA PVT. LTD.

Appellant

Vs
Respondent

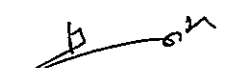
C.C.E. DELHI III

STAY ORDER NO.389-390/2009-EX

I am directed to transmit herewith a certified copy of Final order No. 292-293/2009-

EX[DB] dated 28-4-09

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. DELHI III

UDYOG MINAR, UDYOG VIHAR, VANIJYA NIKUNJ, PHASE V, GURGAON - 122016 (HARYANA)

2. Adv. / Consult

MR.V. LAXMIKUMARAN

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

3 C.D.R

~~4 J.C.D.R.~~

5 Bar association, CESTAT, New Delhi

6 Director Publications, Customs, Excise. I.P. Estate, New Delhi

7 M/s Centax Publications Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3

8 Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar, Chennai -17

9 Raghuraman's 44-B, Regal Flat, Shipra Suncity, Indirapuram - 201010, Ghaziabad, DT, U.P.

10 M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)

11 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017

12 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kunj, New Delhi - 110070

13 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026

14 Easy Service Tax Online Dot Com Pvt.Ltd.407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-15

15 LAWCRUX Advisors Pvt Ltd, LAW House, 1-8, Sector - 10, Faridabad 121003 (Haryana)

16 Office Copy

17 Guard file


Assistant Registrar
(Excise Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
BENCH-DB

**Excise/Stay No.539/09-Ex in
Appeal No.E/537/09**

[Arising out of Order-in-Appeal No.283/ANS/GGN/2008 dated
12.12.2008 passed by the Commissioner of Central Excise Delhi-III].

**Date of Hearing:27.04.2009
Date of decision: 27.04.2009**

M/s.Alumayer India (P) Ltd.

...Appellant

Vs.

CCE, Delhi-III

... Respondent

Present for the Appellant :Shri B.L.Narasimhan, Advocate
Present for the Respondent :Shri V.Choudhury, SDR

**Excise/Stay No./E/St/540/09-Ex in
Appeal No.E/538/09**

[Arising out of Order-in-Appeal No.282/ANS/GGN/2008 dated
12.12.2008 passed by the Commissioner of Central Excise, Delhi-III]

M/s.Raj Kumar Das

...Appellant

Vs.

CCE, Delhi-III

... Respondent

For approval and signature:

**Hon'ble Dr.C.Satapathy, Technical Member
Hon'ble Mr.D.N.Panda, Judicial Member**

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?	
4	Whether Order is to be circulated to the Departmental authorities?	

Present for the Appellant : Shri B.L.Narasimhan, Advocate
Present for the Respondent : Shri A.K.Rastogi, DR

Coram: Hon'ble Dr.C.Satapathy, Technical Member
Hon'ble Mr.D.N.Panda, Judicial Member

STAY ORDER NO. 389-390/09-EX DATED: 27.04.2009
FINAL ORDER NO 292-293/09-EX
PER: Dr.C.Satapathy

Heard both sides. Shri B.L.Narasimhan, Id. Advocate states that the Lower Appellate Authority has dismissed the appeal for non-compliance of the order with direction to pre-deposit. Without prejudice to the contentions of the appellant, he voluntarily offers to make payment of Rs.5 Lakhs and prays for remanding the matter back to the Lower Appellate Authority for decision on merit.

2. Heard Id. DR. He opposes the grant of partial Stay on the ground that the Tribunal in the case of CCE, Chennai vs. Aluplex India Ltd. reported in 2008 (228) E.L.T. 97 (Tri. Chennai) has decided a similar issue in favour of the Department.

3. After hearing both sides, we find that the Lower Appellate Authority has not decided the case on merit. As such the appellants are directed to pre-deposit of Rs.5.00 Lakhs within a period of **four weeks** and report compliance to the Lower Appellate Authority. Subject to ^{compliance with the} above direction, the impugned order shall stand vacated

and the matter shall stand remanded to the Appellate Authority. In the event of noncompliance, the appeal itself shall stand dismissed.

4. The Lower Appellate Authority shall grant reasonable opportunity of hearing to both the sides. The Stay Applications and appeals are disposed of in the above terms.

[Dictated & Pronounced in the open Court].

(DR.C.SATAPATHY)
TECHNICAL MEMBER

(D.N.PANDA)
JUDICIAL MEMBER

Anita