

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

Appeal No. E/5628/2004 - EX[DB]

Date 03/06/2009

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

To :
M/S KANAHYA AQUA CONTROL PVT.LTD.
SAINI COLONY, CHHOTA SAIPUR JALANDHAR
M/S KANAHYA AQUA CONTROL PVT.LTD.
C.C.E.JALANDHAR

Appellant

Vs
Respondent

EX[DB] dated 27-5-09

I am directed to transmit herewith a certified copy of Final order No. 396/2009-
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.JALANDHAR

CENTRAL REVENUE BUILDING SECTOR 17-C, CHANDIGARH

2. Adv. / Consult

MR.SUDHIR MALHOTRA.

13-R, HUKAM CHAND COLONY, NEAR D.A.V COLLEGE, JALANDHAR

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)

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17 Guard file


Assistant Registrar
(Excise Appeal Branch)

**IN THE CUSTOMS, EXCISE & SERVICE
TAX APPELLATE TRIBUNAL,
WEST BLOCK NO. 2, R.K. PURAM,
NEW DELHI**

COURT – III

CENTRAL EXCISE APPEAL NO. 5628 OF 2004-EX

[Arising out of Order-in-Appeal No.362/CE/JAL/2004 dated 26.8.2004 passed by the Commissioner (Appeals) (Jal.), Central Excise, Chandigarh]

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 the order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	m
3.	Whether their Lordships wish to see the fair copy of the order?	
4.	Whether order is to be circulated to the Departmental authorities?	yes

M/s. Kanahya Aqua Control Pvt. Ltd.,

Appellants

Vs.

CCE, Jalandhar

Respondent

Appearance:

Shri Sudhir Malhotra, Advocate for the Appellants;
Shri B.S. Suhag, D.R. for the Revenue

Coram:

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

Date of hearing/decision: 27th May, 2009

FINAL ORAL ORDER NO. 396/09-EX dated _____

Per P.K. Das:

Heard both sides and perused the records.

2. In this case duty was demanded on the ground that the appellants cleared the goods under the brand name of other person. Commissioner (Appeals) directed the appellants to make pre-deposit of Rs. 3 lakhs towards duty and Rs. 1 lakh towards penalty. The appeal was dismissed by the Commissioner (Appeals) for non-compliance of stay order. On perusal of the records, we find that the Tribunal directed the appellants to make pre-deposit of Rs. 1.5 lakhs vide stay order dated 23.12.2004 and the same was complied with by the appellants.

3. We find that the Commissioner (Appeals) had not decided the matter on merit. In view of that, we set aside the impugned order and remand the matter to the Commissioner (Appeals) to decide the same on merit without insisting on any ^{two lakhs} pre-deposit. Appeal is allowed by way of remand

(M. VEERAIYAN)
MEMBER (TECHNICAL)

(P.K. DAS)
MEMBER (JUDICIAL)

RK