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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/138 /2005 - EX[DB]

Date 13/07/2009

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

To :
EEI INDUSTRIES LTD,
PLOT NO. 86-92, SECTOR-I, INDL. AREA,
GOVINDPURA, BHOPAL (M.P.)
EEI INDS. LTD.

C.C.E BHOPAL

Appellant

Vs

Respondent .

EX[DB] dated 07-7-09

I am directed to transmit herewith a certified copy of Final order No. 451/2009-
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 BHOPAL

HOSHANGABAD ROAD, 48, ADMINISTRATIVE AREA, AREA HILLS, BHOPAL (M.P.) 462011

2. Adv. / Consult

MR. RAJESH KUMAR, ADV., 24-A, DDA, SFS FLAT,
MOUNT KALLASH, EAST OF KAILASH, N. DELHI-65

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

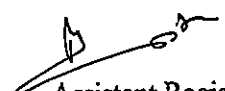
14 Easy Service Tax Online Dot Com Pvt.Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-15

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

16 Office Copy

17 Guard file

18. HON'BLE PRESIDENT


Assistant Registrar
(Excise Appeal Branch)

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI**

PRINCIPAL BENCH - COURT NO. 1

Excise Appeal No. 138 of 2005

(Arising out of Order-in-Appeal No. 316/CE/BPL/04 dated 29.09.2004 passed by the Commissioner (Appeals), Central Excise, Bhopal).

DATE OF HEARING : 07.07.2009

DATE OF DECISION : 07.07.2009

FOR APPROVAL AND SIGNATURE :

HON'BLE MR. JUSTICE R.M.S. KHANDEPARKAR, PRESIDENT
HON'BLE MR. M. VEERAIYAN, MEMBER (TECHNICAL)

1.	Whether Press Reporters may be allowed to see the order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982 ?	No
2.	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not ?	No
3.	Whether their Lordships wish to see the fair copy of the Order ?	See
4.	Whether Order is to be circulated to the Departmental Authorities?	Yes

M/s EEI Industries Ltd.

....

Appellants

(Rep by Sh. Rajesh Kumar, Adv.)

VERSUS

CCE, Bhopal

....

Respondent

(Rep. by Sh. Virender Choudhary, DR)

CORAM : HON'BLE MR. JUSTICE RMS KHANDEPARKAR, PRESIDENT
HON'BLE MR. M. VEERAIYAN, MEMBER (TECHNICAL)

Final ORAL ORDER NO. 451/09-Ex

PER M. VEERAIYAN :

Appeal no. E/138/2004 is against the order of the Commissioner (Appeals) No. 316/CE/BPL/04 dated 29.09.2004 by which the appeal has been dismissed for failure to comply with the order of pre-deposit under Section 35-F of the Central Excise Act, 1944. The Commissioner (Appeals) has not gone into the merits of the case. The Tribunal vide stay order no. 175/05-B dated 28.02.2005 directed the appellants to deposit a sum of Rs. 2 lacs and the said order has been complied with.

2. After hearing both sides and noting that the Commissioner (Appeals) has not decided the issue on merits, we deem it appropriate to set aside the order of the Commissioner (Appeals) and direct him to decide the issue on merits without insisting for further deposit under Section 35-F of the Act.

3. The appeal is allowed by way of remand on the above terms.

4. We also make it clear that we have not expressed any view on the merits of the case.

(JUSTICE R.M.S. KHANDEPARKAR)
PRESIDENT

(M. VEERAIYAN)
MEMBER (TECHNICAL)