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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/5204/2004 - EX[DB]

Date 28/08/2009

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

To :
C.C.E. CHANDIGARH
PLOT NO 19, SEC 17-C, CHANDIGARH
C.C.E. CHANDIGARH

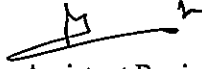
M/S XEN

Appellant

Vs
Respondent

EX[DB] dated 25-8-09

I am directed to transmit herewith a certified copy of Final order No. 558/2009-
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

M/S XEN

CENTRAL WORKSHOP, PUNJAB STATE ELECTRICITY BOARD, PATIALA

2. Adv. / Consult

*SH. VIKRANT KACKRIA, ADV.,
L/O. RESPONDENT*

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

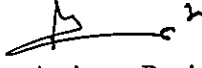
13 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026

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)

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

COURT – III

CENTRAL EXCISE APPEAL NO. 5204 OF 2004

[Arising out of Order-in-Appeal No. 259/CE/CHD/2004 dated 27.7.2004
passed by the Commissioner (Appeals), Central Excise, Chandigarh]

For approval and signature:

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

CCE, Chandigarh

Appellant

Vs.

M/s. XEN, Central Workshop, P.S.E.B.

Respondent

Appearance:

Shri K.P. Sing, S.D.R. for the Revenue;
None for the respondents

Coram:

Hon'ble Dr. Chittaranjan Satapathy, Member (Technical);
Hon'ble Mr. P.K. Das, Member (Judicial)

Date of hearing/decision: 25th August, 2009

FINAL ORDER NO. 558 / 09-EX dated _____

Per Dr. Chittaranjan Satapathy:

Heard learned SDR who supports the grounds of appeal in the department's appeal and states that the order passed by the lower authorities requires to be reversed as part of the refund is time barred and other part has been allowed without considering the Hon'ble Supreme Court's decision in the case of Priya Blue Industries Ltd. vs. C.C. (Preventive), reported in 2004 (172) ELT 145 (S.C.) and in the case of CCE, Kanpur vs. Flock (India) Pvt. Ltd., reported in 2000 (120) ELT 285 (S.C.).

2. Respondents are not represented despite adjournment granted earlier. There is also no request for adjournment. As such, grounds advanced by the department remains controverted. Accordingly, we set aside the impugned order and remand the matter to the lower appellate authority for fresh decision. He shall pass a fresh order after affording reasonable opportunity of hearing to both sides. Department's appeal is allowed by way of remand.

(Dictated & pronounced in the Open Court.)

(DR. CHITTARANJAN SATAPATHY)
MEMBER (TECHNICAL)

(P.K. DAS)
MEMBER (JUDICIAL)

RK