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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

Date 14/09/2009

Appeal No. E/1546/2009-1548/2009 - EX[DB]
E/S/1575-1577/2009-EX

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

To :
M/S LAULS LTD.
33-B, NIT, FARIDABAD (HARYANA)

M/S LAULS LTD. Appellant
Vs
C.C.E. DELHI IV STAY ORDER NO.915-917/2009-EX Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 650-652 2009 EX[DB] dated 04-9-09 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 IV
NEW CGO COMPLEX, NH-IV, FARIDABAD, HARYANA 121001.
2. Adv. / Consult
MR.L.P. ASTHANA & MS REENA KHAIR
R-163, SECOND FLOOR, GREATER KAILASH-1, NEW DELHI - 110 048.
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 Publictions 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)

19.SHRI ABHAY GUPTA,
33-B, NIT, FARIDABAD, (HARYANA)

20.SHRI RAM BILAS BANSAL,
HOUSE NO. 70, SECTOR-17, FARIDABAD.

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

Excise Appeal Nos. 1546-1548 of 2009

[Arising out of the order-in-original No.6/NS/ADN/2009 dated 27.2.2009 passed by the Commissioner of Central Excise, Delhi IV, Faridabad].

For Approval and Signature:

Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri M. Veeraiyan, Member (Technical)

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	Yes
2	Whether it should be released under Rule 27 of 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?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	No

Excise Appeal No. 1546 /2009

M/s. Lauls Ltd. — Appellants
[Rep. by Ms. Reena Khair, Advocate]

Vs.

Commissioner of Central Excise
New Delhi IV — Respondent
[Rep. by Shri R.K.Verma, DR]

Excise Appeal No. 1547 /2009

Shri Ram Bilas Bansal — Appellants
[Rep. by Ms. Reena Khair, Advocate]

Vs.

Commissioner of Central Excise
New Delhi IV — Respondent
[Rep. by Shri R.K.Verma, DR]

Excise Appeal No. 1548 /2009

Shri Abhay Gupta — Appellants
[Rep. by Ms. Reena Khair, Advocate]

Vs.

Commissioner of Central Excise
New Delhi IV — Respondent
[Rep. by Shri R.K.Verma, DR]

CORAM:

Hon'ble Mr. Justice R.M.S. Khandeparkar, President
Hon'ble Mr. M. Veeraiyan, Member (Technical)

Date of Hearing/decision : 4.9.2009

Final **ORAL ORDER NO. 650-652/09-EX**

Per Mr. Justice R.M.S. Khandeparkar (for the Bench):

Heard. Though an interim order dated 27.2.09 passed by the Commissioner, Faridabad is sought to be challenged on various grounds, it is not necessary to address to all those grounds and suffice to refer to only one ground which relates to failure on the part of the concerned authorities to afford fair opportunity of being heard to the appellants in the matter before disposing the matter.

2. The records placed before us apparently disclose that pursuant to service of show cause notice dated 8.02.2008, the appellants had been trying to get copies of the relied upon documents as well as return of unrelied documents. In that regard, a specific letter was addressed by the appellants to the Commissioner of Central Excise on 12.7.2008. The said letter after repeated reminders could get reply only in the month of October being letter

dated 13.10.08 whereby the appellants were requested to collect copies of the relied upon documents and to take inspection of some other documents including unrelied documents. Undisputedly all the copies of the relied upon documents and the return of unrelied documents were furnished to the appellants as late as on 21.12.08. Meanwhile, under letter dated 15.11.08 the appellants had informed the concerned authority that they would not be able to file their reply to the show cause notices unless copies of relevant documents were provided to them and on getting such copies they would require 6 weeks time to file the reply. Thereafter the notices came to be issued to the appellant regarding the hearing of the matter before the Commissioner. The contents of the said notice reads thus:

> "In this regard, I have been directed to inform you that the personal hearing in the matter has now been fixed for 04.02.2009 at 3.00 PM. by the Commissioner, Central Excise, Delhi IV, Faridabad in her room at 1st Floor, 'D' Block, New CGO Complex, NH-IV, Faridabad. You or your authorised representatives are requested to appear for personal hearing on the stipulated date and time. IN case you or your authorised representative fails to appear on the date of hearing fixed for any unavoidable reasons (to be intimated in advance or on the date of Personal Hearing so fixed), the case would be deemed to have been adjourned to the next date of hearing fixed for 11.2.2009 at 3.00 pm and should further adjournment(s) become necessary the same may further be deemed to be fixed on 18.2.2009 at 3.00 pm.
>
> Please note that if you or your authorised representatives do not appear for personal hearing on the above date and time, the matter will be decided ex-parte on the basis of evidence available on record."

3. It is not in dispute that neither on 4.2.09 nor on 11.2.09, the appellants appeared before the Commissioner nor they filed any application for adjournment of the hearing. The Commissioner did not proceed with the matter and thereby condoned the absence of the appellants for these days. As regards date of hearing on 18.2.09, the advocate of the appellants sent a letter dated 12.2.09 under speed post addressed to the Commissioner Faridabad requesting him to adjourn the matter as it would not be possible for him to attend the hearing on 18.2.09. The Commissioner however, proceeded to dispose of the matter on 27.2.09 without fixing any further date of hearing. Undisputedly, there was lapse on the part of the appellants in not filing the reply within 6 weeks from the date of receipt of copies of the documents and return of unrelied upon documents. At the same time, the appellants absence on two dates of hearing was condoned by the Commissioner. It is matter of record that even though the application dated 12.2.09 by the advocate of the appellant was received by the Commissioner, neither the next date of hearing was fixed nor even any reference to the said application has been made by the Commissioner while disposing of the matter. The impugned order nowhere discloses the justification for disposal of the matter without even affording any opportunity to the appellants by acceding to the request of the appellants which was made under letter dated 12.2.09. In the circumstances, as rightly pointed out by the learned advocate for the appellant there is clear violation of principles of natural justice by the adjudicating authority while disposing of the proceedings and imposing duty liability upon the appellants.

4. In the facts and circumstances, therefore, we are left with no alternative but to set aside the impugned order and direct the Commissioner to give hearing to the appellants in the matter and dispose of the proceedings afresh in accordance with the provisions of law.

5. At the request of the learned advocate for the appellants, four weeks time is granted to file reply to the show cause notice. Such reply should be filed on or before 5.10.09 without fail. The appellants shall ensure their co-operation to the concerned authorities for expeditious disposal of the matter.

6. The appeals are dispose of in the above matter.

(Justice R.M.S. Khandeparkar)
President

(M. Veeraiyan)
Member(Technical)

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