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

Appeal No. C/125, 126, 127 & 128 /2006 - CU[DB] Date 10/10/2008

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

To :
COMMISSIONER OF CENTRAL EXCISE,DELHI-III
DELHI-III, UDYOG MINAR, VANIJYA NIKUNJ,
UDYOG VIHAR, PHASE-V, GURGAON (HARYANA)
COMMISSIONER OF CENTRAL EXCISE,DELHI-III Appellant

Vs

M/S PULSE COPIERS Respondent

I am directed to transmit herewith a certified copy of **Final order** No.C/370-373/08-CUS. DATED 26.08.08 passed by the Tribunal under Section 129. (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(Customs Appeal Branch)

Copy to :
1. Respondent
M/S PULSE COPIERS, 1, MINI MARKET,
NEAR GURUDWARA, MOTI BAGH, NEW DELHI
2. Adv. / Consult MR. HEMANT BAJAJ, ADV.,
A-5 (BASEMENT), LAJPAT NAGAR-III,
NEW DELHI – 110 024.
3 S.D.R
4 J.C.D.R.
5 Bar association. CESTAT. New Delhi
6 M/s. Deeparchi Publications. M-93. Marg. 46. Saket. New Delhi 110017
7 M/s Centax Publictions (P) Ltd.. 1512-B. Bhishm Pitamah marg. Opp. ICICI Bank of Defence Colony. New - 3
8 Excise & Customs cases. B-37. Sector -1. NOIDA - 201301 Gautam Budh Nagar. (U.P.)
9 Raghuraman's 44-B. Regal Flat.Shipra Suncity. Indirapuram - 201010.Ghaziabad. DT. U.P.
10 Nidheshak publications. I.P.Estate. new Delhi
11 Taxmann Allied Service Pvt Ltd.. 21/35. West Punjabi Bagh. New Delhi - 110026
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033. No.70(Old No. 88). Thyagaraya Road. T. Nagar.Chennai
13 Taxindiaonline.com Pvt.Ltd. B-XI/8183.Vasant Kunj. New Delhi - 110070
14 Easy Service Tax Online Dot Com Pvt.Ltd.407A.Iscon Mall.Above Star India Bazar.Satellite Road.Ahmedabad-15
15 Office Copy
16 Guard file
17. M/S DIGITECH PHOTO COPIERS,
1024-P, SECTOR-7, GURGAON,
HARYANA.
18. M/S B.E. OFFICE AUTOMATION
PRODUCTS PVT. LTD. 203, HSIDC INDUS. AREA,
BADDI DISTT., SOLAN, HIMACHAL PRADESH.

Assistant Registrar
(Customs Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Customs Appeals Nos.125-126/06 & 127 & 128/06-Customs Branch

[Arising out of Order-in-Appeal No.434-435/GRM/GGN/2005 dated 29.11.2005 and Order-in-Appeal No.424-425/GRM/GGN/2005dated 25.11.2005 passed by the Commissioner of Central Excise (Appeals), Delhi-III]

Date of Hearing/ Decision:26.08.2008

For approval and signature:

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

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1. Whether Press Reporters may be allowed to see 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? : No
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.

CC, New Delhi

....Appellants
[Rep. by Shri Sumit Kumar, DR]

Vs.

(1) M/s. Pulse Copiers
(2) M/s. B.E. Office Automation
(3) M/s. Digitech Photocopiers

...Respondent
[Rep. by Shri Hemant Bajaj, Advocate]

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

Final

Order No. C/370-373/08 /Dated 26.08.2008

Per P.K. Das :

Ld. Advocate on behalf of the Respondents raised a preliminary objection on maintainability of the appeals filed by the Revenue. He submits that Revenue filed these appeals without review order and authorisation of Committee of Commissioners as required under Section 129 A (2) of the Customs Act, 1962.

2. After hearing both the sides and on perusal of the records, we find force in the submission of the ld. Advocate. It is seen from the record that the Adjudication Order was passed by the Additional Commissioner, Central Excise, Delhi-III. The present appeals were signed by the Commissioner, Central Excise , Delhi-III. Sub-section (2) of Section 129A of Customs Act, 1962, provides that Committee of Commissioners of Customs may, if it is opinion that an order passed by the Commissioner (Appeals) is not legal and proper, direct the proper officer to appeal in its behalf to the Appellate Tribunal against such order.

3. We find that the present appeals were filed without the opinion and authorisation of Committee of Commissioners of Customs, which are contrary to provisions of sub-section (2) of Section 129A of the Act. Accordingly, the appeals filed by the Revenue are not maintainable.

4. In the case of Commissioner of Central Excise Vs. Gupta Steels Pvt. Ltd.- 2007 (218) ELT 90 (T-Kolkata), it has been held that maintainability of review of Commissioner (Appeals) order – one Commissioner holding charges of two Commissioners to constitute a

Committee to form an opinion on the legality and propriety of Commissioner (Appeals) order. Legal requirement under Central Excise Act, 1944 after 2005 amendment is that a Committee of two Commissioners can only decide the issue and subsequent authorisation to file an appeal on behalf of Committee. Since only one Commissioner has given impugned authorisation, same is not valid.

5. In view of the above discussion, appeals are dismissed as not maintainable.

(M. Veeraiyan)
Member (Technical)

(P.K. Das)
Member (Judicial)

Ckp.