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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/164 /2004 - CU[DB] Date 23/10/2008

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

To :
IDEAL EXPORTS ,4/10, Nai Kothi, Raghubir Puri,
Aligarh(U.P.)

IDEAL EXPORTS Appellant

Vs

C.C. (ICD) NEW DELHI Respondent

I am directed to transmit herewith a certified copy of Final order No. C /413/ 08-CU(DB) dated 8.10.08 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
   C.C. (ICD) NEW DELHI
   ICD, TUGHLAKABAD, NEW DELHI 110020.
2. Adv. / Consult P.C. Jain, C/o. M/s Ideal Exports, 4/10, Nai Kothi, Raghubir Puri, Aligarh
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-1
15. Office Copy
16. Guard file

Assistant Registrar
(Customs Appeal Branch)

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

COURT – II

CUSTOMS APPEAL NO. 164 OF 2004

[Arising out of Order-in-Original No. AKR/CC/ICD/TKD/53/02 dated 13.5.02 passed by the Commissioner of Customs (ICD), Tughlakabad, New Delhi]

For approval and signature:

Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. Rakesh Kumar, 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?	
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3.	Whether their Lordships wish to see the fair copy of the order?	
4.	Whether order is to be circulated to the Departmental authorities?	

M/s. Ideal Exports — Appellants

Vs.

CC, New Delhi — Respondent

Appearance:

Shri P.C. Jain, Advocate for the appellants;
Shri V. Kumar, Departmental Representative, for the Revenue;

Coram:

Hon'ble Mr. S.S. Kang, Vice President,

Hon'ble Mr. Rakesh Kumar, Member (Technical)

Date of Hearing: 7th October, 2008

FINAL ORDER NO. C/413/08 **dated** 7/10/08

Per S.S. Kang:

Heard both sides.

2. The appellants filed this appeal against the impugned order passed by the Commissioner of Customs whereby demand of customs duty was confirmed on the ground that the appellants made import of goods without payment of duty on the condition that the same will be exported after processing. Contention of the Revenue is that the appellants have not fulfilled the export obligation, therefore, they liable to pay duty. Contention of the Appellants is that impugned order is passed ex-parte in spite of the fact that the appellants made a request for adjournment on medical ground. It is also submitted that in respect of export obligation the appellants filed documents in support of their claim.

3. Revenue submitted that three opportunities were granted by the adjudicating authority for personal hearing and the appellants failed to avail the opportunity of personal hearing, therefore, there was no option with the Commissioner to pass ex-parte order.

4. We find that the appellants vide letter dated 24.4.2002 made a request for adjournment on medical ground and along with request for

adjournment the appellants also filed medical certificate. Now the appellants filed certain evidence in support of their claim that the goods imported without payment of duty were exported after processing ~~which~~ and the same requires verification.

5. We find that demand was confirmed on the ground that the appellants failed to fulfill their export obligation. Now the appellants filed shipping bills in support of their claim that they have exported the goods after processing which require verification. In these circumstances, impugned order is set aside and the matter is remanded to the adjudicating authority to decide afresh. The appellants are directed to appear before the adjudicating authority on 2nd December, 2008.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

Dated 8th October, 2008

RK