

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

CUSTOMS APPEAL BRANCH

Appeal No. C/301 /2007-302 /2007 *C/S/1157-58/07*

Date 21/01/2008

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

To :
M/S JUPITER INDUSTRIES PVT. LTD.
2, RAJA SUBODH MULLICK SQUARE, KOLKATA-
700013

M/S JUPITER INDUSTRIES PVT. LTD.

Appellant

C.C.E. INDORE

Vs

Respondent

I am directed to transmit herewith a certified copy of Final order No. *C/3-4/08* ^{*S.O. No. C/5-6/08*} Customs dated *9-1-08* 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.E. INDORE
MANIK BAGH PALACE, POST BOX NO. 10, INDORE
452001 (M.P.)
2. Adv. / Consult
MR. PIYUSH KUMAR, ADV
B-25, LAJPAT NAGAR-III, N. DELHI
3. S.D.R.
4. J.C.D.R.
5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, marg. 43, saket, New
7. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah
8. Excise & Customs cases, B-37, Sector -I, NOIDA - 201301
9. R. Venkatraman Constt. 44-B, S. Suncity, Ghaziabad -
10. Nidheshak publications, I.P. Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,
12. Co, Law Institution
13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file


Assistant Registrar
(Customs Appeal Branch)

1 M/S JUPITER INDUSTRIES PVT. LTD.
2, RAJA SUBODH MULLICK SQUARE, KOLKATA-700013

CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI, COURT NO.1

~~CUSTOMS~~ STAY APPLICATION NOS.1157 & 1158 OF 2007 IN A.M.C.
~~CUSTOMS~~ APPEAL NOS.301 & 302 OF 2007

Date of Hearing/Decision:9.1.2008

[Arising out of Order-in-Appeal Nos.1&2 CE/BPL/2000 dated 27.1.2000 passed by the Commissioner (Appeals), Customs and Central Excise, Bhopal]

Date of Hearing/Decision: 9.1.2008

For approval and signature:

Hon'ble Mr. Justice S.N. Jha, President
Hon'ble Mr. T.K. Jayaraman, 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 should 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? :
-

Jupiter Industries P. Ltd.

Applicant

Versus

CCE, Indore

Respondent

Appearance:

Mr. Piyush Kumar, Advocate for the Appellant

Mr. R.K. Verma, Authorized Representative (DR) for the Respondent

Coram: Mr. Justice S.N. Jha, President

Mr. T.K. Jayaraman, Member (Technical)

Per Justice S.N. Jha: Final **ORDER** No C/3-4/08
Stay Order No/C/05-06/08

These two appeals have been taken together for hearing and are disposed the same by a common order.

2. These appeals arise from common order-in-appeal of the Commissioner (Appeals), Bhopal dismissing the appeals preferred by the

appellants, for non-compliance of the earlier order dated 20.12.1999 by which the appellant had been directed to pre-deposit the amount of duty. The case of the appellants is that the order regarding pre-deposit was passed behind its back without giving opportunity of hearing. It is also the case of the appellant that it had already deposited a sum of Rs.4,37,319/-, which was the subject matter of one of the appeals and no order regarding pre-deposit could thereon be passed so far as that appeal was concerned.

3. In view of the order which we propose to pass, we refrain from expressing any opinion on merit of the case. The Commissioner has not gone into the merits of the case and we may not consider the same. It is not in dispute that the appellate order was passed without personal hearing to the appellants and therefore, we are satisfied that the order suffers from the vice of violation of the principles of natural justice. It is undisputed that the appellant was entitled to personal hearing in view of the mandate of the Central Excise Act. We, therefore, set aside the impugned order of the Commissioner (Appeals) dated 27.1.2000 and direct that the matter be heard de novo and decided on merit. As the dispute relates to the period 1996, the appeals should be disposed of expeditiously, preferably within two months from the date of receipt of a copy of this order.

4. The stay applications as well as the appeals stand disposed of accordingly.

[Dictated and pronounced in the open Court]

[Justice S.N. Jha]
President

[T.K. Jayaraman]
Member (Technical)