

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

Appeal No. C/485 /2005

Date 30/01/2008

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

To :  
PASHUPATI SPINNIG & WEAVING  
1501,NIRMAL TOWER, 26,BARAKHAMBA ROAD,  
NEW DELHI  
110001

PASHUPATI SPINNIG & WEAVING

Appellant

Vs

Respondent

C.C. (ICD) NEW DELHI

I am directed to transmit herewith a certified copy of Final order No. C/485/08 Customs dated 16-1-08  
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. (ICD) NEW DELHI

ICD, TUGHLAKABAD, NEW DELHI 110020.

2. Adv. / Consult

MR.C.HARISHANKAR

46, BANK ENCLAVE, DELHI-110092

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 -1, NOIDA - 201301

9. R.Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -

10. Nidheshak publications, I.P.Estate, new Delhi

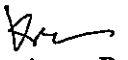
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,

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)

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

**COURT II**

**Customs appeal No. 485 of 2005**

[Arising out of Order-in-Original No. VIII/ICD/6/EXP/CONVERSION/1057/2004 dated 28.2.2005 passed by the Commissioner of Customs, ICD, Tughlakabad, New Delhi]

For approval and signature:

Hon'ble Mr. S.S. Kang, Vice President  
Hon'ble Dr. T.V. Sairam, Member (Technical)

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|----|--|--|
| 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. Pasupati Spinning & Weaving Mills

Appellants,

Vs.

C.C. (ICD), New Delhi

Respondent

**Appearance:**

Shri C. Harishanker & Shri S. Sumit, Advocates for the appellants,  
Shri R.K. Verma, JDR for the respondent

**Coram:**

Hon'ble Mr. S.S. Kang, Vice President  
Hon'ble Dr. Sairam, Member (Technical)

**Date of Hearing: 16.1.2008**

FINAL ORDER NO. C/9/08 dated 16/1/08

**Per S.S. Kang:**

Heard both sides.

2. The appellants filed this appeal against the impugned order passed by the Commissioner of Customs whereby their request for conversion of advance licence against shipping bill into DEPB was rejected without affording any opportunity of personal hearing. The contention is that advance licence against shipping bill was not issued by the DGFT, therefore, the appellants made request for conversion of Shipping Bill. The contention is that the impugned order is passed without affording any opportunity of hearing to the appellants. The appellants have sufficient evidence to show the circumstances under which advance licence was not issued. Therefore, they are entitled for the benefit under DEPB scheme.
3. We find that the impugned order is passed without affording any opportunity of hearing to the appellants. We, therefore, set aside the impugned order and remand the matter to the adjudicating

authority to pass a fresh order after affording suitable opportunity of personal hearing to the appellants.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)  
VICE PRESIDENT

(Dr. T.V. SAIRAM)  
MEMBER (TECHNICAL)

Dated 18<sup>th</sup> January, 2008

RK