TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

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

Appeal No. C/850 /2005 Date 17/03/2008

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

To :
M/S IND-SWIFT LABORATORIES LTD
SCO - 813, SHIVALIK ENCLAVE, NAC, MANIMAJRA,
CHANDIGARH

M/S IND-SWIFT LABORATORIES LTD Appellant

Vs

C.C NEW DELHI Respondent

I am directed to transmit herewith a certified copy of **Final order No.C/47/08-CUSTOMS** **dated 19.02.08**

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 NEW DELHI

COMMISSIONER (EXPORTS) NEW CUSTOMS HOUSE,
IGI AIRPOET, NEW DELHI

2. Adv. / Consult MR.BALBIR SINGH
MASTAN & CO, C-5/9, SAFDARJUNG ENCLAVE,
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 Publictions (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 – 110 066.
Principal Bench, New Delhi

COURT NO. I
Customs Appeal No. 850 of 2005

[Arising out of the Order-in-Original No. KRB/ACE/10/05 dated 29/07/2005 passed by The Commissioner of Customs (Exports), New Delhi.]

For Approval and signature :
Hon'ble Mr. Justice S.N. Jha, President
Hon'ble Mr. M. Veeraiyan, 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 Department Authorities?	:

M/s Indo Swift Laboratories Ltd. Appellant

Versus

CC, New Delhi Respondent

Appearance

Shri Balvir Singh, Advocate – for the appellant.

Shri B.K. Singh, Authorized Representative (DR) – for the Respondent.

CORAM : **Hon'ble Mr. Justice S.N. Jha, President**
Hon'ble Mr. M. Veeraiyan, Member (Technical)

DATE OF HEARING : 19/02/2008.

Final Order No. C/47/08 Dated : 19/2/08

Per. Justice S.N. Jha :-

The dispute in this appeal relates to exemption under Notification No. 43/02-CUS dated 19/04/02. The said notification provided for duty free import of materials under the Advance Licence Scheme on fulfilment of certain conditions. One of the condition was that the importer should not have availed of the facility of rebate of duty paid on materials used in the manufacture of resultant products exportable under Rule 18 of the Central Excise Rules 2002 or the facility available under Rule 19 (2) relating to removing any material without payment of duty from factory for use in the manufacture or processing of goods. The case of the appellant is that it did not avail of any of the facilities contemplated under Rule 18 or Rule 19 (2) and was therefore was entitled to exemption under the said notification. An affidavit to this effect has been filed today during the course of hearing. Learned counsel for the appellant submitted that the case of the appellant as above may be verified by the Department so that, depending on the result of verification, there may not be any dispute left to be decided in this appeal. The learned D.R. submitted that in stead of the Tribunal considering the matter further, it would be more appropriate if the matter is remitted back to the Commissioner for de novo consideration in the light of the result of verification. We find the suggestion to be reasonable and accordingly, after dispensing with the requirement of pre-deposit we send the matter back to the Commissioner (Customs), Air Cargo, New Delhi for de novo consideration. To facilitate a de novo consideration the impugned order of the Commissioner dated 29/07/2005 is set aside.

2. The appeal stands disposed of.

(Dictated and pronounced in open court)

(Justice S.N. Jha)
President

(M. Veeraiyan)
Member (Technical)

PK