

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

Appeal No. C/733 /2007

Date 08/07/2008

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

To :
M/S JOHAR ENTERPRISES
A-506, ANSAL CHAMBERS-I, 3,
BHIKAJI CAMA PLACE, N DELHI.
M/S JOHAR ENTERPRISES

Appellant

Vs

C.C. NEW DELHI (IMPORT & GENERAL)

Respondent

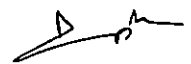
I am directed to transmit herewith a certified copy of Final order No.C/156/08-CUSTOMS DT.13.06.08
passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax


Assistant Registrar

(Customs Appeal Branch)

Copy to :

1. Respondent C.C. NEW DELHI (IMPORT & GENERAL)
NEW CUSTOM HOUSE, NEAR I.G.I. AIRPORT,
NEW DELHI 110037.
2. Adv. / Consult MR.PRABHAT KUMAR,ADV.
B-51(BASEMENT)SARVODAYA ENCLAVE,
NEAR MOTHER INTERNATIONAL SCHOOL NEW DELHI
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 Publications (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
8. Excise & Customs cases, B-37, Sector -I, 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 60017
13. Taxindiaonline.com Pvt.Ltd, 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-110066.
Principal Bench, New Delhi.

Customs Appeal No.733 of 2007/CST

[Arising out of Order-in-Original No.VIII(H) 13/37190 dt.21.11.07
passed by the Commissioner of Customs, 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 :
Department Authorities:
-

M/s. Johar Enterprises

Appellant

Versus

Commissioner of Customs(I&G), New Delhi

Respondent

Appearance

Sh. Prabhat Kumar, Adv. For appellant

Sh. Amit Jain, Authorised Departmental Representative(DR) For respondent

Coram: Hon'ble Mr. S.S.KANG, VICE PRESIDENT
Hon'ble Mr. RAKESH KUMAR, MEMBER TECHNICAL

Per S.S.Kang:

Date of decision: 9.6.08

Order No.

C/156/08

Per S.S.Kang:

Heard both sides. The appellant filed this appeal against the order
passed by the Commissioner of Customs whereby the request for renewal of
CHA licence was rejected.

2. The revenue raised the issue of maintainability of appeal in the case of G.P.Jaiswal vs CC, Lucknow vide Misc. Order No.C/29/08 dt.15.4.08 whereby the Tribunal held that against the order refusing licence or rejecting the renewal application, the appeal cannot be said to be maintainable,

3. We have gone through the order and Tribunal held as under:

“11. The fact that there is specific provision for appeal before the Tribunal against order of suspension or revocation of licence, under Regulation 23(8) which shows that wherever the framers of Regulations wanted that there should be a right of regular appeal before the Tribunal with respect to the job conditions of CHAs, such remedy was provided. It may be observed here that any order revoking or suspending the licence is likely to visit the person with evil consequence; it is also likely to cast some stigma on him, and therefore, the framer of the Regulations deemed it proper to make provision for regular appeal against such an order. However, as regards rejection of licence, including rejection of renewal application, no person can claim any vested right of appointment as CHA; he can only claim right of consideration. There was, therefore, an apparent justification to provide for a lesser remedy – by way of representation – against any order refusing licence or rejecting the renewal application before the Chief Commissioner. May be, as seen above, the 2004 Regulations provide for regular appeal against such orders, but that is a policy matter. Legally, treating orders of suspension/revocation of licence and non-renewal of licence on different footings was sustainable. As observed above, right of appeal is a creature of statute and there being no provision under which a CHA could file appeal before this Tribunal against order rejecting the renewal application, the appeal cannot be said to be maintainable”.

4. In view of the above order passed by the Tribunal, we find that the appeal is dismissed as not maintainable.

Order dictated in the open Court.

(S.S.Kang)
Vice President

(Rakesh Kumar)
Member Technical

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