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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/753 /2005 to 758 /2005 Date 08/07/2008

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

To :
M/S A S T PAPER MILLS LTD
35, BHADAUR HOUSE LUDHIANA

M/S A S T PAPER MILLS LTD Appellant

Vs

THE COMMISSIONER OF CUSTOMS, LUDHIANA Respondent

I am directed to transmit herewith a certified copy of Final order No.C/166-171/08-CUS. DT.12.06.2008 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
   THE COMMISSIONER OF CUSTOMS, LUDHIANA
   F BLOCK, RISHI NAGAR, LUDHIANA
2. Adv. / Consult MR.V.LAKSHMI KUMARAN, ADV.
   B-6/10, SAFDARJUNG ENCLAVE,
   NEW DELHI-110029
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 Delhi -
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 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
COURT – II

CUSTOMS APPEAL NO. 753 to 758 OF 2005

[Arising out of Order-in-Appeal No. 39 to 43/Cus./Appeal/Ldh/05 all dated 27.4.2005 passed by the Commissioner (Appeals), Central Excise. Ludhiana]

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?	No
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. A.S.T. Paper Mills Ltd. Appellants

Vs.

CC, Ludhiana Respondent

Appearance:

Shri Ravi Raghavan, Advocate for the appellants;
Shri Amit Jain, SDR, Departmental Representative, for the Revenue

Coram:

Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. Rakesh Kumar, Member (Technical)

Date of Hearing: 12th June, 2008

FINAL ORDER NO. C/166 - 171/08 **dated** 12/6/08

Per S.S. Kang:

Heard both sides.

2. Since the common issue involved in these appeals they are being taken together. The appellants filed these appeals against the impugned orders whereby benefit of notification No. 21/2002 dated 1.3.2002 was denied on the ground that end-use certificate was not produced within the stipulated period.

3. Contention of the appellants is that end-use certificate was produced before the Commissioner (Appeals) at the time of hearing but the same has not been taken into consideration while passing the order on the ground that the same has not been produced within the stipulated period. The appellants relied upon the decision of the Tribunal in the case of Kaanchi Steel Pvt. Ltd. Vs. CC, Chennai, reported in 2007 (211) ELT 113 (Tri.-Chennai) and in the case of CC, Bangalore vs. Integra Micro Systems (P) Ltd., reported in 2005 (180) ELT 174 (Tri.-Bang.) wherein the Tribunal ~~has~~ held that production of certificate is only a procedural requirement and end-use certificate can be produced at any stage.

4. Contention of the Revenue is that as per the requirement of the notification end-use certificate is to be filed within 6 months or time extended by the proper officer. In the present case as the appellants has

not produced end-use certificate within six months nor they made any request for extension of time, therefore, demand was rightly made.

5.We find that now the appellants have produced end-use certificate before the Commissioner (Appeals) but the same was not taken into consideration as the it was produced after stipulated period mention in the notification. In the decisions relied upon by the appellants the Tribunal held that such certificate can be produced at any stage and it is only a procedural requirement. Therefore, the matter requires re-consideration by the adjudicating authority. Accordingly impugned order is set aside and the matter is remanded to the adjudicating authority to decide afresh after affording reasonable opportunity of hearing to the appellants. Appeals are disposed of by way of remand.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

Dated 12th June, 2008-06-12
RK