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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/486 /2008 Date 24/07/2008

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

To : M/S ELECTRONIC STUDION PTE. LTD.
NO.02-07, NO. 04-05, HIGH STREET PLAZA,
77, HIGH STREET. SINGAPORE- 179433

THROUGH SH. MOHAN GANDHI,
C-9, MAHENDRA ENCLAVE.
DELHI – 110 009.

M/S ELECTRONIC STUDION PTE. LTD. Appellant

Vs

C.C. (ICD) NEW DELHI Respondent

I am directed to transmit herewith a certified copy of **Final order** No.C/245/08-CUS. DATED 17.07.08 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.V. LAXMIKUMARAN, 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, NEW DELHI
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

Custom Appeal No. 486 of 2008-Cus.

(Arising out of Order-in-Original No. VIII/ICD/TKD/SHB/08/08/Pt/7986 dated 6.6.2008 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?	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 Electronic Studio Pvt. Ltd. — Appellant

Vs.

CC, New Delhi — Respondent

Appearance:
Shri M.P. Devnath, Advocate - For appellant
S/Shri Amit Jain & R.K. Verma, DRs - For respondent

CORAM:
HON'BLE MR. S.S. KANG, VICE PRESIDENT
HON'BLE MR. RAKESH KUMAR, MEMBER (TECHNICAL)

Date of Hearing: 17.7.2008

Final Order No. C/245/08 dated 17/7/08

Per S.S. Kang:

Heard both sides.

2. The appellant filed this appeal against the order passed by Commissioner of Customs on the request for re-export of consignment. The appellant is an exporter of the goods in question to India. The goods were consigned to M/s Manhar Trading Co. However, nobody filed Bill of Entry in respect of the goods in question. The appellant made a request to the Custom authorities for re-export of the consignment and vide impugned order request for re-export was allowed subject to the certain conditions.

3. The appellant's objection is in respect of condition imposed by the Commissioner of Customs.

4. The Revenue raised a preliminary objection that the impugned order is not an appealable order. The contention is that as per the provisions of Section 129A of Customs Act, the Tribunal is competent to hear the appeal against the order or decision passed by Commissioner of Customs as an adjudicating authority. The Revenue submitted that earlier the appellant has exported a

consignment of goods declared as Video Cassettes and other electronic goods to same consignee i.e. M/s Manhar Trading Co. M/s Manhar Trading Co. filed Bill of Entry declaring the value of the goods which was found to be mis-declared. On examination, it was found that there are excess (undeclared) goods worth Rs.1.66 Crores and the same were seized by the Custom authorities and investigation is going on in respect of earlier import and in respect of the present import regarding actual transaction value and to find out any nexus between importer and exporter beyond normal business relation. The contention is that pending investigation, the Commissioner of Customs allowed the re-export of the goods on certain conditions and this order is an interim order, therefore, it is not an order passed as adjudicating authority.

5. The contention of the appellant is that as the lis has been decided by the Commissioner of Customs regarding their request for re-export, therefore, this order is passed

by the adjudicating authority, hence the statutory appeal is maintainable.

6. We find that the present order is passed ~~for~~ in respect of request made by the appellant ~~in respect of~~ for re-export of the goods pending investigation in respect of the export of goods by the appellant to M/s Manhar Trading Co. including present consignment. As there is no final decision or order passed by the Commissioner of Customs as adjudicating authority, therefore, we find merit in the contention of the Revenue that the present order is an interim order and appeal under Section 129A of Customs Act is not maintainable. The appeal is dismissed as non-maintainable.

(Dictated & pronounced in open Court)

(Order Dasti)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

RM