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/948 -49/2005 Date 07/08/2008

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

To :
M/S GAUTAM CHATTERJEE
69, ASHIRWAD APARTMENTS I.P.EXTENSION,
DELHI
110092

M/S GAUTAM CHATTERJEE Appellant

Vs

THE COMMISSIONER OF CUSTOMS, NEW DELHI Respondent

I am directed to transmit herewith a certified copy of **Final order No.** C/284-85/08Custom dated 1.8.08 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
   THE COMMISSIONER OF CUSTOMS, NEW DELHI
   ICD, TUGHLAKABAD, NEW DELHI
   110044
2. Adv. / Consult
   MR.LAJJA RAM
   40/159, C.R. PARK, N.DELHI- 110019.
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
16. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15

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. 948-949 of 2005-Cus.

(Arising out of Order-in-Original No. 76/05 dated 31.8.2005 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 Departmental authorities.	

Gautam Chatterjee — Appellant

Vs.

CC, New Delhi — Respondent

Appearance:
Shri Surinder Kumar, Advocate - For appellant
Shri R.K. Verma, DR - For respondent

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

Date of Hearing: 1.8.2008

Final Order No. C/284-285/08 dated 1/8/08

Per S.S. Kang:

Common issue is involved, therefore, appeals are being taken up together.

2. The appellant filed these appeals against the adjudication orders whereby penalty of Rs. 10 lakhs and Rs. 3 lakhs was imposed on the appellant. The case of the Revenue is that the appellant in connivance with Bipin Shah and Manikchand with intent to defraud the Government revenue fabricated advance licences and sold in the market and under these import licences the importers were entitled to import goods without payment of Custom duty. The contention of the appellant is that he has been falsely implicated in the present case he sold advance licences in the market on commission basis and he was not aware of the fact that the advance licences were forged one. The appellant acted in a bona fide manner for sale of the advance licences and he has no role in the alleged fabrication of the advance licences. The appellant had nothing to do with the import of the goods under the advance licences in

question, therefore, the penalties imposed under the impugned orders are not sustainable.

3. The Revenue submitted that the appellant along with Manikchand apprehended by the Custom officers and Manikchand in his statement under Section 108 of Custom Act admitted that he is fabricating the advance licences which were sold in the market through the appellant. The appellant in his statement under Section 108 of Customs Act admitted that the forged advance licences were sold by him for monetary consideration, therefore, liable for penalties.

4. We find that in this case Manikchand and Bipin Shah in their statement before Custom authorities admitted that they were preparing forged advance licences which were sold in the market by appellant. The appellant in his statement also admitted that the forged licences were sold by him for monetary consideration. The goods were imported without

payment of duty against the licences sold by appellant. In these circumstances, we find no infirmity in the impugned order, the appeals are dismissed.

(Operative part of the order pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

RM