

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

Appeal No. E/721 -722/2006-SM[BR]

Date 23/01/2008

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

To :
(1-2) L.B & SONS
PANT NAGAR, SAGAR(M.P.)

L.B & SONS


Appellant

Vs

Respondent

C.C.E BHOPAL

I am directed to transmit herewith a certified copy of Final order No.128-129/2008-SM[BR] dated 6.12.2007
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

C.C.E BHOPAL

HOSHANGABAD ROAD, 48, ADMINISTRATIVE
AREA, AREA HILLS, BHOPAL (M.P.) 462011

2. Adv. / Consult

MR.P.C.KASHIV

E-3/49, STOP NO 10, KAMDAR MARKET, BHOPAL

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 Publications (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
(SM Appeal Branch)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH
NEW DELHI, COURT NO. III**

Excise Tax Appeal Nos. 721-722 of 2006 –SM (BR)

[Arising out of Final order No. 92-93/App1/BPL/2005 dated 29.09.2005 passed by the Commissioner (Appeals) Central Excise, Bhopal]

Date of Hearing/ Decision: 06.12.2007

For approval and signature:

Hon'ble Mr. P.K. Das, Member (Judicial)

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- | | | |
|--|---|-------------|
| 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 should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? | : | } <i>KS</i> |
| 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 L.B. & Sons

Appellant

[Rep. by Mr. P.C. Kashiv, Consultant for the appellant]

Vs.

CCE, Bhopal

Respondent

[Rep. by Mr. S. L. Meena, Authorised Representative (DR) for the respondent]

CORAM: Mr. P.K. Das, Member (Judicial)

Final **ORDER** No 128-129/08-SM (BR)

Per P.K. Das:

Common issue is involved in these appeals and therefore, both are taken up together for disposal.

2. After hearing both the sides and on perusal of the records, I find that the Commissioner (Appeals) in the impugned orders observed that the appellant clearly accepted the demand of duty and ready to pay the duty. He also observed

that the appellant contended that penalty under Rule 26 was not warranted when penalty under Rule 25 of Central Excise Rules 2002 was imposed. On perusal of the written submissions filed by the learned Consultant before the Commissioner (Appeals) it is seen that the appellants have contested the demand of duty. Thus, it transpires that the appellant contested the case on merit which was not considered by the Commissioner (Appeals). Hence, the impugned orders are set-aside and the matters are remanded back to the Commissioner (Appeals) to decide on merit after considering the submission of the appellants. Needless to say, that the Commissioner (Appeals) shall provide an opportunity of hearing before the decision. The appeals are allowed by way of remand.

(Order dictated and pronounced in the open Court)

(P.K. Das)
Member (Judicial)

[Pant]