

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

Appeal No. C/519 /2007-520 /2007-SM[BR]

Date 19/02/2008

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

To :
M/S DELTA OVERSEAS
PLOT NO. 3, VILLAGE KHAKAT, G.T. ROAD,
LUDHIANA, PUNJAB

[2]SMT.MEENU GOYAL
W/O OF SHRI. KULBUSHAN GOYAL VILLAGE KHAKAT
G.T. ROAD LUDHIANA [P.B]

M/S DELTA OVERSEAS

Appellant

Vs

C.C. (PREVENTIVE) AMRITSAR

Respondent

I am directed to transmit herewith a certified copy of Final order No. 311-312/2008-SM[BR] dated 7.1.2008 passed by the Tribunal under Section 129, (B) of the Customs Act, 1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

C.C. (PREVENTIVE) AMRITSAR

CUSTOM HOUSE, CENTRAL REVENUE BUILDING,
THE MALL, AMRITSAR 143001.

2. Adv. / Consult

MR.RAWAL

249, LAWYERS CHAMBERS, HIGH COURT OF INDIA, 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. 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 & SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

Custom Appeal No. 519-520 of 2007-SM(BR)

(Arising out of Order-in-Original No.06/CUS/07 dated 25.6.07 passed by the Commissioner of Customs, Amritsar)

For approval and signature

HON'BLE MR. S.S. KANG, VICE PRESIDENT

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?	f u
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 Delta Overseas
Smt. Meenu Goyal

Appellant

Vs.

CC, Amritsar

Respondent

Appearance:

Shri Prem Ranjan Kumar Singh, Advocate
Shri S.L. Meena, SDR

- For appellant
- For respondent

CORAM:

HON'BLE MR. S.S. KANG, VICE PRESIDENT

Date of Hearing: 7.1.2008

Final Order No. 311-312/08-SM(BR).....dated...7.1.2008

Per S.S. Kang:

Heard both sides.

2. The appellant filed these appeals against the same impugned order whereby Commissioner of Customs extended

the period for issuance of show-cause notice of six months i.e. up to 26.12.07

3. The Revenue submitted that in pursuance to this order, show-cause notice has been issued on 20.12.07, therefore, the challenge to this order become infructuous.

4. The contention of the appellant is that no doubt a show-cause notice has been issued on 20.12.07, In pursuance to the impugned order, The contention is that they are now challenging the seizure/freezing of bank accounts. The contention is that the Revenue department wrote to the concerned banks vide letter dated 3.11.05 for freezing of the amount in question and no show-cause notice within six months issued as amended under Section 110 of the Customs Act, therefore, seizure/freezing of the amount in bank beyond the period of six months from 3.11.05 is not sustainable.

5. The contention of the Revenue is that in the present proceedings, the Commissioner of Customs issued the direction

to the bank on 20th October 2006 that, the amount in question is seized and the same should be converted into fixed deposit. The contention of the Revenue is that the appellant challenged this order and the Hon'ble Punjab & Haryana High Court stayed the operation of this direction. The Hon'ble Punjab & Haryana High Court ultimately disposed the petition with the direction to pass appropriate order regarding seizure on 6.12.06. Thereafter, the bank converted the seized amount into FDRs on 27.12.06 from this date the six months expires on 26.6.07. The Commissioner of Customs extended the period of issuance of show-cause notice regarding this amount on 25.6.06 i.e. ^{with in} even six months as provided under Section 110 of the Customs Act and the period for issuance of show-cause notice was extended up to 26.12.07 and the show-cause notice was issued within this period. The contention of the Revenue is that in the show-cause notice dated 20.12.07, there was proposal to confiscate amount in question being the draw back amount which were availed wrongly by the appellant.

6. In the present case, I find that the impugned order was passed extending the period of show-cause notice up to 26.12.07 as per the provisions of Section 110 of the Customs Act. In pursuance to this order, show-cause notice was issued on 20.12.07. In the show-cause notice there was proposal for confiscation of the amount in question as per the provisions of Section 121 of Customs Act read with Section 75 of the Customs Act. The contention of the appellant, regarding the seizure of the amounts in question, I find now show-cause notice is issued for confiscation of the amounts in question, therefore, whatever the objections, the appellants are ^{now} taking regarding seizure of the amounts in question they are at liberty to raise the same before the adjudicating authority. The appellant relied upon the decision of Hon'ble Delhi High Court in the case of **M/s Euroasia Global** decided on 18.9.2007 and the case of **Veritas Exports Vs. Union of India** reported in 2005 (184) ELT 341. I find that the facts of the present case are different from the decision relied upon by the appellant. In the case of **Euroasia**

● Global (supra) the direction to the assessee to maintain a minimum balance of Rs.4.89 lakhs in the bank and that direction was quashed on the ground that the same direction has been given them without reason or evidence to show that there was a reasonable belief the amount in question is liable for confiscation. In the case of **Veritas Exports** (supra), the direction to freeze the bank account was issued without following the law laid down under Section 110 of the Customs Act. There is no explanation given by the Revenue authorities to justify the continuation of account in frozen condition. In the present case, now show-cause notice has been issued in pursuance to the impugned order where there was a proposal for confiscation of this amount. In these circumstances, I find no merit in these appeals, the same are dismissed.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

RM