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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/159 /2008-SM[BR] Date 22/07/2008

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

To :
M/S J.R.INDUSTRIES (NOW J.R.TRANSFORMERS PVT. LTD.)
C-13, INDUSTRIAL FOCAL POINT (NEW),
DABWALI ROAD,
BATHINDA

M/S J.R.INDUSTRIES (NOW J.R.TRANSFORMERS PVT. LTD.) Appellant

Vs

C.C. (PREVENTIVE) AMRITSAR Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1065 /2008 –SM[BR] dated 27.6.2008 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.SUDHIR MALHOTRA
   13-R, HUKAM CHAND COLONY, NEAR D.A.V COLLEGE, JALANDHAR
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
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

C/Appeal No. 159/08-SM

(Arising out of order in appeal No. 154/Cus/Appl/Ldh/07 dated 5.12.07 passed by the Commissioner of Central Excise (Appeals), Chandigarh)

For approval and signature:

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

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 ?

3. Whether Their Lordships wish to see the fair copy of the Order ?

4. Whether Order is to be circulated to the Departmental authorities?

N.

M/s J.R. Industries (now J.R. Transformers Pvt Ltd) — Appellant (Rep. by Shri Sudhir Malhotra, Advocate)

Vs

CC, Amritsar — Respondent (Rep. by Shri Sumit Kumar, DR)

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

Date of Hearing: 27.6.08

Final Order No. 1065 /2008-SM(BR)

Per P.K. Das:

The Appellant filed this appeal against the rejection of refund claim on the ground that the appellants failed to prove that the incidence of duty has not been passed on to any other person.

2. After hearing both the sides and on perusal of the record, it is revealed from the order of the Commissioner (Appeals) that the Appellants produced the Chartered Accountant Certificate in support of their contention that incidence of duty has not been passed to any person. The learned Advocate drew the attention of the Bench to the Chartered Accountant Certificate which transpires that the balance sheet shown the amount recoverable as Rs. 81,983/-. The Commissioner (Appeals) has not given any finding on the Chartered Accountant Certificate.

3. I find that the matter requires to be examined by the Commissioner (Appeals). Accordingly, the impugned order is set aside. The matter is remanded back to the Commissioner (Appeals) to examine the Chartered Accountant Certificate alongwith other records as placed by the Appellants. Needless to say, that the Commissioner (Appeals) shall give a proper opportunity of hearing to the Appellants before deciding the appeal. The appeal is allowed by way of remand.

(Order dictated and pronounced in the open Court).

(P.K. Das)
Member(Judicial)

MPS*