

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

Date 23/07/2008

Appeal No. C/269 /2008-SM[BR] C/ STAY /797 /2008 -SM[BR]

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

To :
C.C. (PREVENTIVE) AMRITSAR
CUSTOM HOUSE, CENTRAL REVENUE BUILDING,
THE MALL, AMRITSAR 143001.
C.C. (PREVENTIVE) AMRITSAR

Appellant
Vs
Respondent

M/S EASTMAN INTERNATIONAL

[am directed to transmit herewith a certified copy of Final order No. 1075 /2008 -SM[BR] &S /425 /2008 dated 3.7.2008
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

M/S EASTMAN INTERNATIONAL

B-XXX-2185/C-203/1, PHASE- VII, FOCAL POINT, LUDHIANA, PB
2. Adv. / Consult SHRI GAURAV KALIA ADV.
154-G , B. R. S. NAGAR LUDHIANA [P.B.]

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 Publications (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 6001
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,
West Block No.2, R.K Puram, New Delhi-110066

COURT-IV

Date of hearing: 03.7.2008

Stay C/S/797/of 2008-(SM(BR))
Central Customs Appeal No. C/269 of 2008-SM(BR)

C.C. (Prev.) Amritsar

Appellants/applicants

vs.

Eastman International

Respondent

Appearance:

Shri S. Gautam, Authorized Departmental Representative (DR) for the Revenue

Shri Gaurav Kalia, Advocate for the appellants/applicants and

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

Stay order No. 425/08-SM(BR)
Final Order No. 1075/08-SM(BR)

Per: P.K. Das

After hearing both the sides and ^{on} perusal of records, it is seen that the issue involved in this appeal is in a narrow campus and therefore after rejecting the stay application, appeal is being taken up for hearing for disposal.

2. It is seen from the records that the Adjudicating Authority rejected the refund claims as the respondent failed to prove that the duty incidence has not been passed to any other person. Commissioner

● (Appeals) allowed the refund claim. It is seen that the affidavit filed by the respondent was not supported by evidence that the incidence of duty has not been passed by them to any other person. The Id. Advocate submits they have filed the Chartered Accountant in support of Affidavit. He fairly submits that the said document was not placed before the Lower Adjudicating Authority.

3. After hearing both the sides and on perusal of records, I find that the documents placed by the Id. Advocate were not placed before Adjudicating Authority. Commissioner (Appeals) passed the order on the basis of affidavit. So the impugned order of the Commissioner (Appeals) is set aside and the matter is remanded back to the Commissioner (Appeals) and to pass order after examining the Chartered Accountant Certificate and other evidence. The appeal is allowed by way of remand.

(Dictated and pronounced in the open court).

(P.K. Das)
Member (Judicial)

K. Gupta