

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/206 /2008-SM[BR]

Date 29/08/2008

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

To :
C.C.E. KANPUR
117/7, SARVODAYA NAGAR, KANPUR 208005.

C.C.E. KANPUR

Appellant

Vs
Respondent

M/S ABDULLAH TANNERY PVT. LTD.

I am directed to transmit herewith a certified copy of **Final order No. 1221 / 2008 -SM[BR]** dated 5.8.2008
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 ABDULLAH TANNERY PVT. LTD.

16-B, 150 FT. ROAD,
JAJMAU, KANPUR.

2. Adv. / Consult SHRI . K.C. RAWAL MANAGER

M/S RESPONDENT;-----

3. S.D.R.

4. I.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 60017

13. Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kunj, New Delhi - 110070

14. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15

15. Office Copy

16. Guard file


Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Customs Appeal No.206 of 2008-SM (BR)

[Arising out of Order-in-Appeal No.387/CUS/APPL/KNP/07 dated
28.12.2007 passed by the Commissioner of Central Excise (Appeals), Kanpur]

Date of Hearing/ Decision:05.08.2008

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
CESTAT (Procedure) Rules, 1982. | : | } <i>W</i> |
| 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? | : | |
-

CCE, Kanpur

...Appellants

(Rep. by Shri Sansar Chand, DR)

Vs.

M/s. Abdullah Tannery Pvt. Ltd.

...Respondent

[Rep. by Shri K.C. Rawal, Manager of the Company]

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

Final Order No. 1221/02-SM(BR) Dated:05.08.2008

Per P.K. Das:

Revenue filed this appal against the order of the Commissioner
(Appeals), whereby the Commissioner (Appeals) remanded the matter
back to the Asstt. Commissioner (Customs), ICD, JRY, Kanpur with
direction to re-check the correct rate of CVD payable on the imported

goods. If it is found to be @ 8% , the refunds should be sanctioned and should not be denied on technical ground.

2. After hearing both the sides and on perusal of the records, it is seen from the order of the Commissioner (Appeals) that the Adjudication Order was passed without following the principles of natural justice. It is noted that no personal hearing has been given and no show cause notice was issued.
3. Ld. DR submits that as the Adjudicating Authority passed the order in violation of principles of natural justice, the remand order with certain directions of the Commissioner (Appeals) is not sustainable. I agree with the submissions of the ld. DR. The Adjudicating Authority ~~perused~~ ^{perused} the order in violation of principle of natural justice and such order is bad in law. So, Adjudicating Authority shall pass order afresh after following the principle of natural justice.
4. In view of that, the impugned order is modified in so far as remand back the matter to the Adjudicating Authority is upheld, but, the Adjudicating Authority will decide the matter afresh in de novo proceedings after observing principle of natural justice. The appeal is allowed in the above terms.

Order dictated & pronounced in open court on 5.8.2008.

(P.K. Das)
Member (Judicial)

Ckp.