

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/2687/2006-SM[BR]

Date 15/04/2008

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

To :
M/S ECHO AUTO

C/O SHRI BALRAJ VOHRA, H.NO. 3124, SECTOR 28-D,
CHANDIGARH
M/S ECHO AUTO

Appellant

Vs
Respondent

C.C.E. PANCHKULA

I am directed to transmit herewith a certified copy of Final order No. 625 /2008 -SM[BR] dated 19.3.2008

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. PANCHKULA

SCO NO. 407 AND 408, SECTOR 8, PANCHKULA (HARYANA) 134119.

2. Adv. / Consult

MR.ATUL GUPTA. CO.SECTY.

B-1/1289-A, VASANT KUNJ NEW DELHI-70

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 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)

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

Excise Appeal No.E/2687 of 2006-SM (BR)

[Arising out of Order-in-Appeal No.75/GRM/PCK/2006 dated 27.2.2006 passed by the Commissioner (Appeals), Central Excise, Gurgaon]

Date of Hearing/ Decision:19.3.2008

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?	:	W
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.Echo Auto,

Appellants
[Rep. by Shri Atul Gupta, Co.-Secretary]

Vs.

CCE, Panchkula

Respondent
[Rep. by Shri A.K. Rastogi, Authorized Departmental Representative (DR)]

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

MM

Final Order NO. 625/08-SM(BR) / Dated: 19.3.2008

Per P.K. Das:

Heard both sides and perused the records.

2. In the instant case, it has been alleged that the appellant availed credit on the basis of the invoices without receiving the goods. Show cause notice was issued against the appellant and the supplier of the inputs. The adjudicating authority dropped the proceedings. Revenue filed appeal against the appellant. By the impugned order, the Commissioner (Appeals) upheld the demand of duty against the appellant and also imposed penalty on them.

3. Ld. Advocate submits that the Commissioner (Appeals) had not examined the records and the documents. He further submits that the adjudicating authority, after examining the documents, had come to a conclusion that the appellant received the materials. It is seen that the Commissioner (Appeals) observed that the appellant did not file any cross objection. Ld. Advocate also submits that the adjudication order was in their favour and, therefore, there was no reason for filing cross objection. In any event, I find that the documents are required to be examined by the Commissioner (Appeals). As such, the impugned order is set aside and the matter is sent back to the Commissioner (Appeals) to decide afresh after

considering the documents. Needless to say that the Commissioner (Appeals) would provide proper opportunity of hearing to the appellants before decision. The appeal is allowed by way of remand.

Order dictated & pronounced in open court on 19.3.2008.

(P.K. Das)
Member (Judicial)

Ckp.