

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/3860/2006-SM[BR]

Date 08/05/2008

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

To :
M/S LML LIMITED
C-10, PANKI INDUSTRIAL ESTATE, KANPUR.

M/S LML LIMITED

C.C.E.KANPUR

Appellant

Vs

Respondent

I am directed to transmit herewith a certified copy of Final order No. 709 /-SM[BR] dated 27.3.2008

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.KANPUR

117/7, SARVODAYA NAGAR, KANPUR.

2. Adv. / Consult

MR.R. SANTHANAM

C-3/210, JANAK PURI, NEW DELHI - 110 058.

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)

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

E/Appeal No.3860 /2006-SM

(Arising out of Order in Original No.34/Comm./MP/06 dated 16.11.06
passed by the Commissioner of Central Excise, Kanpur)

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?

M/s. LML Limited

Appellant
(Rep. by Shri R. Santhanam, Advocate)

Vs

CCE, Kanpur

Respondent
(Rep. by Shri S. Gautam, DR)

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

Date of Hearing:27.3.2008

Final Order No. 709 /2008-SM(BR)

Per P.K. Das:

Heard both sides and perused the record.

2. In this case, credit had been denied on the ground that the duty paying documents were neither in the name of appellants nor had been endorsed to

the appellants. The Tribunal by Final Order No. 342/06 dated 22.2.06 remanded this matter to the Original Authority with the direction that if the transaction is proved by attending connected purchase order and other materials, credit is required to be allowed, as credit is permissible from the depot as well as direct supply to the job worker. The learned Advocate submits that representative of the appellant company attended the hearing on 30th October, 2002 before the Adjudicating Authority and stated that the factory was under lockout and they were not in a position to get all the records and the purchase order. The Adjudicating Authority passed the order on the basis of documents available on record. The learned Advocate submits that the lock out has already been lifted. He submits that they are able to provide documents as directed by the Tribunal in the earlier remand order.

3. Taking into ^{considered} overall facts and circumstances of the case and in the interest of justice, I set aside the impugned order and matter is remanded back to the Adjudicating Authority to decide the matter afresh after granting opportunity of hearing to the appellants. Needless to say that the appellants will provide all the documents as directed by the Tribunal in its earlier order. The appeal is allowed by way of remand.

(Order dictated and pronounced in the open Court).

MPS*

(P.K. Dās)
Member(Judicial)