

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

Appeal No. ST/183 /2008-SM[BR]

Date 19/05/2008

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

To :
C.S.T. DELHI
17-B, I.P. ESTATE, IAEA HOUSE, NEW DELHI.

C.S.T. DELHI

Appellant

Vs
Respondent

M/S EVERGREEN INTERNATIONAL LTD.

I am directed to transmit herewith a certified copy of **Final order No. 781 /2008 -SM[BR]** dated 8.5.2008
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 EVERGREEN INTERNATIONAL LTD.

38TH K.M STONE,
DELHI HIGHWAY,
BEHRAMPUR ROAD,
VILLAGE KHANDSA,
GURGAON (HARYANA)

2. Adv. / Consult SHRI K.K.ANAND ADV.

A-5, [BASMENT] LAJPAT NAGAR-III, NEW DELHI-24

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. Office Copy

15. Guard file

Assistant Registrar
(SM Appeal Branch)

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

ST/Appeal No. 183/08-SM

(Arising out of order in appeal No.39/ST/DLH/07 dated 20.12.07 passed by the Commissioner of Central Excise (Appeals), New Delhi)

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?

JK

CST, New Delhi

Appellant
(Rep. by Shri A.K. Rastogi, DR)

Vs

M/s Evergreen International Ltd

Respondent
(Rep. by Shri Hemant Bajaj, Advocate)

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

Date of Hearing: 8.5.08

Final Order No.

781

/2008-SM(BR)

Per P.K. Das:

Heard both the sides.

2. It is contended by the Revenue in the Grounds of Appeal that the power of remand by the Commissioner (Appeals) has been taken away by

amending Section 35-A of Central Excise Act, 1944 w.e.f. 11.5.2001 under the Finance Act, 2001 and therefore, the Commissioner (Appeals) has no power in remanding the matter to the Adjudicating Authority.

3. I find that the Tribunal in the case of CCE Kanpur Vs Garlon Polyfab Industries Ltd reported in 2008 (84) RLT 464 held that under Section 35-A of the Central Excise Act, 1944, the Commissioner (Appeals) has power to remand the case even after amendment of Section in 2001 and dismissed the Revenue's appeal. In view of that, I do not find any substance in the appeal of the Revenue. Accordingly, the appeal filed by the Revenue is rejected.

(Order dictated and pronounced in the open Court).

MPS*

(P.K. Das)
Member(Judicial)