

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

Appeal No. ST/814 /2008 - CU[DB]
ST/S/2509/08

Date 30/01/2009

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

To :
VALCO INDUSTRIES LTD

H.O. SR-37, SECTOR-26, MADHYA MARG,
CHANDIGARH-160019

VALCO INDUSTRIES LTD

Appellant

Vs

Respondent

C.C.E. CHANDIGARH

I am directed to transmit herewith a certified copy of **Final order No. ST/59/09**

CU[DB] dated

passed by the Tribunal under Section 129, (B) of the Customs Act, 1962 & Financial Act 1994 relating to Service Tax

Along with Stay Order No ST/39/09


Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent

C.C.E. CHANDIGARH

C.R. BUILDING, PLOT NO. 19, SECTOR 17-C, CHANDIGARH 160017

2. Adv. / Consult

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 - 3

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

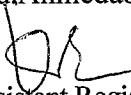
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar, Chennai

13 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kuni, 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
(Customs Appeal Branch)

17 M/S VALCO INDUSTRIES

VILLAGE KATHA, P.O. BADDI, DISTT. SOLAN (HP)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-III

Date of hearing/decision: 9.1.2009

Stay Application No.2509 of 2008 in Service Tax Appeal No.814 of 2008

Arising out of the order in appeal No.417/CE/CHD/2008 dated 8.8.08 passed by the Commissioner (Appeals), Customs & Central Excise, Chandigarh.

For Approval and Signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K. Das, Member (judicial)

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 27 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
3	Whether their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

Appellant

Valco Industries Ltd.

vs.

Respondent

C.C.E.,
Chandigarh

Appearance:

Shri A.K. Gupta, Director for the appellant
Shri A.K. Madan,, Authorized Departmental Representative (DR) for the Revenue

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

Per P.K. Das: *Final* Order No. 57/59/08
Stay Order No 57/39/09

As the issue involved in this matter is in narrow campus, we take up appeal hearing after granting stay.

2. After hearing both sides, it is seen from the order of the Commissioner (Appeals) that the benefit of abatement was denied, the applicant failed to fulfil the condition of the Notification No.1/2006 dated 1.3.2006. Learned DR submits that the appellant did not produce any

evidence that the conditions of exemption notification have been satisfied.

3. We find that the Tribunal on an identical issue in the case of M/s Areva T & D India Limited vs. C.C.E., Allahabad - 2008 - TIOL - 1596 - CESTAT - Del remanded the matter for examination of the document. In view of that the impugned order is set aside and the matter is remanded to the Adjudicating authority to verify the evidence in respect of fulfilling conditions of the Notification. The appeal is allowed by way of remand. Stay application is also disposed of.

4. The adjudicating authority would also examine the availability of Cenvat as contended by the learned representative for the applicant.

(Dictated and pronounced in the open Court)

(M. Veeraiyan)
Member (Technical)

(P.K. Das)
Member (Judicial)

scd/