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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/6 -8 / 2009 –SM[BR] C/STAY/25, 27AND29/2009-SM[BR] Date 09/04/2009

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

To :
(1-3)M/S PATIALA CASTING PVT LTD
MANDI GOBINDGARH.

M/S PATIALA CASTING PVT LTD Appellant

Vs

C.C. CHANDIGARH Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 316-318 / 2009 –SM[BR]&S/136-138 /2009 dated 27.3.2009

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
   C.C. CHANDIGARH
   C.R. BUILDING, PLOT NO. 19, SECTOR 17-C, CHANDIGARH 160017
2. Adv. / Consult
   MR.GAURAV AGARWAL
   RAM BHAWAN,G.T.ROAD,MANDI GOBINDGARH

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 Publictions (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 Kunj. New Delhi - 110070
14 Easy Service Tax Online Dot Com Pvt.Ltd.407A.Iscon Mall.Above Star India Bazar.Satellite Road.Ahmedabad-1
15 LAWCRUX Advisors (P) Ltd, Law House,1-8,Sector - 10, Faridabad 121003 (Haryana)
16 Office Copy
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Assistant Registrar
(SM Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATETRIBUNAL,
West Block No.2, R.K Puram, New Delhi-110066
Principal Bench.

Date of hearing:27.03.2009

Customs Stay Applications Nos.25, 27 and 29 of 2009
Appeals Nos.06-08 of 2009-SM (BR)

(Arising out of Order-in-Appeal No.121-123/CUS/LHD/2008 dated 29.09.2008 passed by the Commissioner (Appeals) Customs & Central Excise, Chandigarh)

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 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?

No.

Yes.

M/s.Patiala Castings Pvt. Ltd. Appellant/Applicant
(Rep. By None for the Appellant/Applicant)
Vs.

CC, Chandigarh Respondent
(Rep. by Shri S.K. Bhaskar, DR for the Respondent)

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

Final Order No. 316 – 318/09 – SM (BR)
Stay order No 136 – 138/09 – SM (BR)

Per: P.K. Das

All the appeals are arising out of common order-in-appeal and, therefore, all are being taken-up together, for disposal. The findings of the Commissioner (Appeals) are that the appellants failed to produce the required end use certificates. Therefore, the appellants were directed to pre-deposit the entire amount of duty in terms of Section 129 E of the Customs Act. The appellants failed to comply with the Stay Order and the appeals were dismissed for non-compliance of stay order. In the present appeals, the appellants contended that in two cases, they have handed over the end use certificate to the CHA at Ludhiana to file the same in the office of Commissioner (Appeals). But the CHA did not file the same. Subsequently, they procured the certificate from the CHA, which was filed with the present appeals. In Appeal No.C/08 of 2009, it is contended that they are trying to procure the end-use certificate.

2. I find that in the two appeals, the appellants already procured the end-use certificate, which was not produced before the Commissioner (Appeals) due to negligence of the CHA. In view of that, the order of the Commissioner (Appeals) is set aside and all the matters are remanded to the

Commissioner (Appeals) to decide the stay applications after verifying the end-use certificate. The appeals are allowed by way of remand. The stay applications are disposed of.

(Dictated and pronounced in the open court).

(P.K. Das)
Member (Judicial)

Ckp