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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. E/1973/2007 – SM[BR] Date 29/05/2009

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

To :
M/S REALTIMES SYSTEMS LTD.
A-49, OKHLA INDL. AREA, PHASE-I, NEW DELHI

M/S REALTIMES SYSTEMS LTD. Appellant
Vs
C.C.E. DELHI II Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 495 / 2009 –SM[BR] dated 15.5.2009 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. DELHI II
   C.R. BUILDING, I.P. ESTATE, NEW DELHI 110002
2. Adv. / Consult
   MR.R.C.VACHHER
   113,NAVJEEVAN VIHAR,N.DELHI
3. S.D.R
4. ~~J.C.D.R.~~
5. Bar association. CESTAT. New Delhi
6. Director Publications. Customs. Excise. I.P. Estate. New Delhi
7. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
8. Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9. Raghuraman's 44-B. Regal Flat.Shipra Suncity. Indirapuram - 201010.Ghaziabad. DT. U.P.
10. M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)
11. M/s. Deeparchie Publications. M-93. Marg. 46. Saket. New Delhi 110017
12. Taxindiaonline.com Pvt.Ltd. B-XI/8183.Vasant Kunj. New Delhi - 110070
13. Taxmann Allied Service Pvt Ltd.. 21/35. West Punjabi Bagh. New Delhi - 110026
14. Easy Service Tax Online Dot Com Pvt.Ltd.407A.Iscon Mall.Above Star India Bazar.Satellite Road.Ahmedabad-15
15. LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Haryana)
16. Office Copy
17. Guard file

Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Excise Appeal No.1973 of 2007 –SM (BR)

[Arising out of common Order-in-Appeal No.46-CE/DLH/2007 dated 04.04.2007 passed by the Commissioner of Central Excise (Appeals), New Delhi]

Date of Hearing:15.05.2009
Date of Decision:15.05.2009

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 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. Real Times Systems Ltd. ....Appellants
[Rep. by Shri R.C. Vachher, Consultant]

Vs.

CCE, Delhi-III ...Respondent
[Rep. by Shri S. Gautam, DR]

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

Final Order No.495/09-SM/Dated:15.05.2009

Per P.K. Das:

After hearing both the sides, I find that the demand was raised on the ground that the appellants failed to furnish evidence of proof of exports. On perusal of the records, it is seen that the appellants by letter dated 19.07.2004 submitted the documents. The relevant portion of the said letter is reproduced below:-

> " It is submitted the proof of export i.e. Shipping Bills, Airways Bills, AR4s were submitted in the range office within the stipulated period but these documents were neither accepted nor acknowledgement issued by the range staff in the absence of BRC's (Foreign Exchange Remittance Certificate). The relevant copies of the invoices are enclosed in both the cases. However, so far BRC's could not be obtained since the office of the consignee i.e. M/s. REALTIME ACCESS INC. in USA was closed down and remittance from USA could not be sent to us through our Banker. Since we have already submitted all the available documents in Central Excise Office, these documents may be accepted as valid documents for export of goods."

2. In view of the above facts, I find that the matter is required to be examined by the Original Authority. As such the impugned order is set aside. The matter is remanded back to the Original Authority to examine the evidence and to pass order in accordance with law. The appeal is allowed by way of remand.

[Order pronounced in open court on 15.05.2009.]

(P.K. Das)
Member (Judicial)

Ckp.