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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 / 555 – 556 / 2008 –SM[BR] Date 11/06/2009

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

To :
1. SH. VINOD KUMAR BATRA, PROPRIETOR,
2. SHRI SANJEEV MADAN
M/S V.K.TRADING CO.73, PRIYADARSHINI
VIHAR,DELHI.
SH. VINOD KUMAR BATRA, PROPRIETOR, Appellant
Vs
C.C.(PREVENTIVE) Respondent

I am directed to transmit herewith a certified copy of **Final order No. 550- 551 / 2009 SM[BR]** dated 2.6.2009 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.(PREVENTIVE)
NEW CUSTOM HOUSE, NEAR I.G.I. AIRPORT, NEW DELHI 110037.
2. Adv. / Consult
MR.PIYUSH KUMAR,ADV
B-25,LAJPAT NAGAR-III,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 & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI

COURT – III

CUSTOMS APPEAL NO. 555-556 OF 2008-SM

[Arising out of Order-in-Appeal No. CCA/Cus/Prev/D-II/163-66/08 dated 29.04.2008 passed by the Commissioner of Customs (Appeals), New Customs House, 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 would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
3.	Whether their Lordships wish to see the fair copy of the order?	
4.	Whether order is to be circulated to the Departmental authorities?	Yes

Shri Vinod Kumar Batra,
Shri Sanjeev Madan — Appellants

Vs.

C.C., Delhi — Respondent

Appearance:

Shri A.K. Mishra, Consultant & Smt. Reena Rawat, Advocate for the appellants;
Shri R.K. Verma, D.R. for the Revenue

Coram:

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

Date of hearing/decision: 2nd June, 2009

FINAL ORDER NO. 550-551/09-SM(BR) **dated** 2.6.9

Per P.K. Das:

Shri Vinod Kumar Batra, Proprietor of M/s. V.K. Trading Co. filed this appeal against penalty of Rs. 2,50,000/-. Shri Sanjeev Madan filed the appeal against imposition of penalty of Rs. 1,50,000/-.

2. After hearing both sides and on perusal of the records, I find that 1,96,721 pieces of Ball Bearings were confiscated by the original authority and imposed penalties, which were upheld by the Commissioner (Appeals). It appears that M/s. Surya Traders filed appeal before this Tribunal against the order impugned in respect of confiscation of goods. Vide Final Order No. 54-55/09-SM(BR) dated 9.1.2009 the Tribunal in the case of M/s. Surya Traders & Shri Sunil Agarwal vs. C.C., New Delhi allowed the appeal setting aside the impugned order. In the present appeals, the original authority observed that both the appellants assisted M/s. Surya Traders for storage of Ball Bearings. I find that since the order against M/s. Surya Traders has been set aside by the Tribunal vide Final Order dated 9.1.2009, therefore, penalties imposed on the present appellants are not sustainable. Accordingly,

penalties imposed on both the appellants are set aside. Both the appeals are allowed with consequential relief.

(Dictated & pronounced in the Open Court.)

(P.K. DAS)
MEMBER (JUDICIAL)

RK