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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

Date 11/06/2009

Appeal No. C/179 /2009 – SM[BR]

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

To :
M/S MOSER BAER INDIA LTD.
43-B,OKHLA INDUSTRIAL ESTATE PHASE-III,NEW
DELHI
110029

Appellant

M/S MOSER BAER INDIA LTD.

Vs

Respondent

C.C. (EXPORT) NEW DELHI

I am directed to transmit herewith a certified copy of **Final order No.** 553 / 2009 –SM[BR] dated 3.6.2009 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. (EXPORT) NEW DELHI
AIR CARGO EXPORT, NEW CUSTOM HOUSE, NEW DELHI 110037
2. Adv. / Consult
MR.B.L.NARSIMHAN
B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029

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-1
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

Customs Appeal No.E/179 of 2009-SM (BR)

[Arising out of Order-in-Appeal No.CCA/18G/4601 dated 18.12.2008 passed by the Commissioner of Customs (Appeals), New Delhi]

Date of Hearing/ Decision:3.6.2009

For approval and signature:

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

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? : NA
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

M/s. Moser Bear India Ltd. ...Appellant
(Rep. by Shri R.K. Hasija, Advocate)

Vs.

CC, New Delhi ...Respondent
(Rep. by Shri S.K. Bhaskar, DR)

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

Final Order No. 553/09-SM (BR)/Dated:03.06.2009

Per P.K. Das:

Heard both sides and perused the records.

2. The Commissioner (Appeals) rejected the appeal without going into the merits, as the appeal was filed beyond the stipulated period. The findings of the Commissioner (Appeals) is that the appellant declared in the Memorandam of Appeal that the impugned order dated 10.04.2008

was communicated to them on 17.09.2008. But it appears from the Asstt. Commissioner's letter dated 17.09.2008 in response to the appellant's letter dated 16.09.2008 that the order was communicated to them vide Speed Post delivery on 10.04.2008.

3. Ld. Advocate submits that it appears from the Postal Receipt that the order was addressed to in-complete address without mentioning the Plot No.

4. On perusal of the Postal Receipt at page 56 of the appeal, I find that the order was issued to M.B. India Ltd., Noida. It appears from the impugned order that the address of the appellant-company is M. India Ltd., 66, ASEZ, Noida, U.P. In this context, ld. Advocate points out that it should be NSEZ. However, he submits that due to marginal difference, they have received this order. I find that the matter is required to be verified at length. Accordingly, the impugned order passed by the Commissioner (Appeals) is set aside. The matter is remanded back to the Commissioner (Appeals) to decide afresh after considering the submission of the appellant on the date of communication of the order. The appeal is allowed by way of remand. Needless to say that the appellant would be given proper opportunity of hearing before decision.

Order dictated & pronounced in open court on 3.6.2009.

(P.K. Das)
Member (Judicial)

Ckp.