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

Appeal No. E/2494/2002 - EX[DB] Date 28/08/2009

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

To :
BHARAT PETROLIUM CORPORATION LTD
AVIATION FUELING STATION,TERMINAL-II,SHAHBAD MOHAMMED PUR VILLAGE,NEW DELHI 110061

BHARAT PETROLIUM CORPORATION LTD Appellant

Vs

C.C. (EXPORT) NEW DELHI Respondent

I am directed to transmit herewith a certified copy of **Final order No. 564/2009- EX[DB]** Dated25-8-09 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :
1. Respondent
C.C. (EXPORT) NEW DELHI
AIR CARGO EXPORT, NEW CUSTOM HOUSE, NEW DELHI 110037
2. Adv. / Consult
MR.V. LAXMIKUMARAN
B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029
3 C.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
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Assistant Registrar
(Excise Appeal Branch)

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

Excise Appeal No.2494 of 2002 -Excise Branch

[Arising out of Order-in-Original No.15/2002 dated 25.06.2002 passed by the Commissioner of Central Excise, New Delhi]

Date of Hearing/ Decision:25.08.2009

For approval and signature:

Hon'ble Dr. Chittaranjan Satapathy, Technical Member
Hon'ble Mr. P.K. Das, Member (Judicial)

1. Whether Press Reporters may be allowed to see CESTAT (Procedure) Rules, 1982.		yes
2. Whether it should be released under Rule 27 of the 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

M/s. Bharat Petroleum Corporation Ltd. ...Appellant
(Rep. by Shri B.L. Narsimhan, Advocate)

Vs.

CCE, Delhi ....Respondent
(Rep. by Shri K.P. Singh, DR)

CORAM: **Hon'ble Dr. Chittaranjan Satapathy, Technical Member**
Hon'ble Mr. P.K. Das, Member Judicial

Final Order No.564/09-Ex/Dated:25.08.2009

Per Dr. Chittaranjan Satapathy:

Heard both sides. Shri B.L. Narsimhan, ld. Advocate appearing for the appellant states that the present case is similar to the case of M/s. IOCL Ltd. Vs. CCE, Kolkata-III reported in 2007 (220) ELT 324 (Tribunal-Kolkata) decided earlier by the Tribunal, except that in the earlier case, there was a small issue of demand relating to valuation, which is not an issue in the present case. He states that similar treatment may be accorded to the present appellant and the appeal may be allowed.

2. Shri K.P. Singh, ld. DR appearing for the Department fairly states that the issue in the present case is similar to the one decided in the case of IOCL Ltd. (supra).

3. After hearing both the sides, we find that the following order has been passed by the Tribunal earlier in the case of IOCL Ltd. (supra):-

> "2. These appeals arise from a common order and hence are taken together for disposal. Shri S.K. Bagaria, ld. Sr. Advocate appearing for the appellants states that there are two issues involved. As regards the small issue of a demand relating to valuation, the amount is about Rs. 11,000/- and he states that the appellants are not pressing their appeal in this regard. As regards the other demand, we find that the notification issued under Rule 12 of the Central Excise Rules, 1944 allows rebate of Central Excise duty paid on Aviation Turbine Fuel supplied to foreign airlines other than those of Nepal and Bhutan. Shri Bagaria, however, contends that in their own case, which went in revision before the Central Govt. considering the executive instructions issued by the Ministry of Finance and the Ministry of Petroleum, the Govt. in its revisionary power, has allowed similar treatment for supply to airlines of Nepal & Bhutan as has been allowed under Notification No. 46/94-C.E. (N.T.) dated 22-9-94 under Rule 12.

3. The ld. D.R. is not aware of any challenge to the said order passed in revision. In view of the fact that the duty concession has been allowed by the Revisionary Authority and the same is not in dispute, we order that similar treatment be extended in respect of the cases before us. The appeals are allowed in the above terms. The duty demand relating to the valuation issue, is upheld and the same is to be adjusted against pre-deposit made. The penalty imposed is set aside. The cross-objection filed by the Revenue stands disposed off. The appellants will be entitled to consequential relief in the circumstances of the case.

The appeals are thus allowed partly."

4. Since the present case of the appellant is similar to the case of M/s. IOCL Ltd. (supra) and relates to grant of rebate of central excise duty paid on Aviation turbine fuel supplied to Airlines of Nepal & Bhutan, we follow the ratio of the earlier order cited above and set aside the impugned order while allowing the appeal of the present appellant. The appeal filed by the appellant is allowed.

Order dictated & pronounced in open court on 25.08.2009.

(Dr. Chittaranjan Satapathy)
Member (Technical)

(P.K. Das)
Member (Judicial)

Ckp.