

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/2422/2007 – SM[BR] , E / CO /288 / 2007 –SM[BR]

Date 27/08/2009

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

To :
C.C.E. JAIPUR II

N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME,
JAIPUR 302005.

C.C.E. JAIPUR II

Appellant

Vs
Respondent

M/S M. TEX

I am directed to transmit herewith a certified copy of Final order No. 1085 / 2009 –SM [BR] dated 21.8.2009

passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

M/S M. TEX

MANDIA ROAD, PALI (RAJASTHAN)

2. Adv. / Consult *Shri. K.K. Anand Adv.*
A-5, Basement Iqbal Nagar-III
Indira Delhi-24

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 Publications 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 (Harvana)

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Assistant Registrar
(SM Appeal Branch)

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II**

E/Appeal No.2422/2007, CO/288/07-SM(Br)

(Arising out of order in appeal No.361/HKS/CE/JPR.II/2007 dated 7.6.07 passed by the Commissioner of Central Excise (Appeals), Jaipur)

CCE Jaipur-II

Appellant

Vs

M/s M. Tex

Respondent

Appeared for Appellant : Ms. Asmita Nayak, Advocate
Appeared for Respondent : Shri S.K. Bhaskar, DR

Date of Hearing: 5.8.09

Coram: **Hon'ble Mr.D.N. Panda, Judicial Member**

final Order No. *1085* /2009 SM(Br)

Per D.N. Panda:

There is no show cause notice on record. Although Revenue has filed appeal against the order passed by the learned Commissioner (Appeals), they are unable to bring out charge against the respondent except to the extent apparent from para 21 at page 34 of the appeal folder. In absence of allegation ⁱⁿ of show cause notice, it is not possible to appreciate the allegation made against assessee for which the appellate order under challenge is to be irreversible. Learned Commissioner in para 12 has brought out the case of the respondent. Particularly in para 15, he was convinced that the show cause notice itself was suffering from the

legal infirmity to bring the charge against the respondent. When he could find that process carried out by the Respondent does not amount to manufacture, he set-aside the order of adjudication. Today there is no material brought out by Revenue to impeach the finding of the learned Commissioner, his finding sustains and Revenue's appeal is dismissed.

(Order dictated and pronounced in the open Court).

(D.N. Panda)
Judicial Member

MPS*