TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

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/507 /2006 – SM[BR] Date 04/09/2009

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

To :
C.C. AMRITSAR
COMMISSIONER OF CUSTOMS, CUSTOMS COMMISSIONERATE
CUSTOMS HOUSE THE MAAL AMRITSAR

C.C. AMRITSAR Appellant

Vs

M/S VIJAY ENTERPRISES Respondent

I am directed to transmit herewith a certified copy of **Final order No. 1110 / 2009 SM[BR]** dated 27.8.2009

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
M/S VIJAY ENTERPRISES
MOTIA KHAN MANDI GOBINDGARH
2. Adv. / Consult SHRI BIPIN GARG ADV.
B-1/1289-A, VASANT KUNJ NEW 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

Customs Appeal No.507 of 2006-SM (BR)

[Arising out of Order-in-Appeal No.61/Cus/CHD/2006 dated 28.04.2006 passed by the Commissioner of Customs (Appeals), Chandigarh]

Date of Hearing/ Decision:27.08.2009

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? : 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.

CC, Amritsar .....Appellants
(Rep. by Shri S.N. Srivastava, SDR)

Vs.

M/s. Vijay Enterprises ....Respondents
(Rep. by Shri Atul Gupta, Co. Secretary)

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

Final Order No. 1110/2009 SM (BR) /Dated:27.08.2009

Per P.K. Das:

Heard both sides and perused the records.

2. The respondent imported Heavy Melting Steel Scrap vide Bill of Entry No.105055 dated 21.11.2005. The Original Authority confiscated the goods, imposed redemption fine of Rs.1,00,000/- and penalty of

Rs.50,000/-. The Commissioner (Appeals) modified the order of the Original Authority insofâr as redemption fine and penalty were reduced to Rs.10,000/- and Rs.5,000/- respectively.

3. The main grievance of the ld. SDR is that the Commissioner (Appeals) passed the order without giving any opportunity of hearing to the Revenue to represent their case.

4. On the other hand, ld. Counsel on behalf of the respondent submits that on identical situation, the Division Bench of the Tribunal in the case of Kirti Sales Corporation Vs. Commissioner of Customs, Faridabad reported in 2008 (232) ELT 151 (Tribunal-Delhi) set aside confiscation of the goods and penalty. He also submits that the Tribunal in the case of Shee Ganesh International Vs. Commissioner of Central Excise, Jaipur – 2004 (174) ELT 171 (Tribunal-Delhi) set aside confiscation and penalty in respect of importation of polyester fabrics.

3. After considering the facts and circumstances of the case, I find that the Commissioner (Appeals) has not granted any opportunity of hearing to the Revenue to represent their case. As such, the impugned order of the Commissioner (Appeals) is set aside. The matter is remanded back to the Commissioner (Appeals) to decide afresh after hearing both the sides.

Order dictated & pronounced in open court on 27.08.2009.

(P.K. Das)
Member (Judicial)

Ckp.