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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. E/2064 – 2065 / 2009 –SM[BR] E/ STAY/ 2148- 2149 / 2009 –SM[BR] Date 17/09/2009

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

To :
(1-2) M/S SUPER AUTO (I) LTD.
PLOT NO. 80, SECTOR-6, FARIDABAD.

M/S SUPER AUTO (I) LTD. Appellant

Vs

C.C.E. DELHI IV Respondent

n directed to transmit herewith a certified copy of **Final order No.** 1140 – 1141 / 2009 –SM[BR]&S/525-526 /09 dated 31.8.2009

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

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
   C.C.E. DELHI IV
   NEW CGO COMPLEX, NH-IV, FARIDABAD, HARYANA 121001.
2. Adv. / Consult
   MR.K.K.SHARMA,
   A-115, GROUND FLOOR, ASHOKA ENCLAVE, PART-II, SECTOR-37, FARIDABAD (HARYANA)
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)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block-2, R.K. Puram, New Delhi.
Principal Bench, New Delhi

Date of hearing: 31.8.2009

E/Stay/2148-2149/09-SM(BR) in
Appeal No. E/2064-2065/09-SM(BR)

(Arising out of Order-in-Appeal No.43/CE/Appl/DLH-IV/2009 dated 13.4.2009 passed by the Commissioner of Central Excise (Appeals) Faridabad)

For approval and signature:

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

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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 should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?

3. Whether Their Lordships wish to see the fair copy of the Order?

4. Whether Order is to be circulated to the Departmental authorities?

M/s Super Auto (I) Ltd. — Appellants/Applicants

vs.

C.C.E., Delhi-IV — Respondent

Appearance:

Shri K.K. Sharma, Advocate for the Appellants/Applicants and
Shri S.K. Bhaskar, DR for the Revenue

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

Final Order No. 1140-1141/2009-SM(BR) & Stay order No. 525-526/2009-SM(BR)

Per: P.K. Das

After hearing both the sides, I find that the issue involved is a narrow campus and, therefore, after granting stay the appeal is taken-up for hearing.

2. It appears that the appellants are contesting the demand of duty and penalty against the following Show Cause Notices:-

(a) Show Cause Notice C. No. CE-20/R-XVIII/IAR-205/Super-80/06/9221 dated 22.11.2006 issued to M/s Super Auto (I) Ltd. Plot No. 80, Sector 6, Faridabad;

(b) Show Cause Notice C No. CE-20/R-XVIII/IAR528/Super-84/07/2022 dated 3.5.2007 issued to M/s Super Auto (I) Ltd. Plot No. 84, Sector 6, Faridabad.

3. The main contention of the appellant is that, no Adjudicating Order was passed against the above mentioned show cause notices. The applicant also had not filed appeals before the Commissioner (Appeals) against the above Show Cause Notices. So, the impugned order of the Commissioner (Appeals) against the above show cause notices are not maintainable. The finding of the Commissioner (Appeals) is reproduced below:-

> "I find that in the impugned Order-in-Original, the Adjudicating Authority has confirmed the demands of duty in respect of all the above show cause notices only against Appellants' 'Unit situated at Plot No. 50, Sector 6, Faridabad, which is totally contrary to the actions proposed in the respective show cause notices. Demands of Duty and imposition of penalties in respect of three independent units cannot be

confirmed/imposed on one single Unit when all the three Units are holding Central Excise Registrations independently, are manufacturing and accounting for their excisable goods separately and independently, are maintaining separate central excise records, are situated at different premises and the different show cause notices were issued to them proposing recovery of duty and imposition of penalty."

4. It is evident that no Adjudicating Order was issued against the above show cause notices and, therefore the order of the Commissioner (Appeals) in respect of above show cause notices is not sustainable. Accordingly, the order of the Commissioner (Appeals) in so far as related to the above show cause notices is set-aside. The matter is remanded back to the Original Authority to decide the above-mentioned show cause notices afresh after giving reasonable opportunity of hearing to the appellants. Both the appeals are allowed by way of remand. Stay applications are also disposed of.

(Dictated and pronounced in the open court.)

(P.K. Das)
Member (Judicial)

K. Gupta