

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
CUSTOMS APPEAL BRANCH

Appeal No. C/412 /2006 - CU[DB]

Date 17/02/2009

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

To :-
COMMISSIONER, CUSTOMS & CENTRAL EXCISE
P.B.NO.10, MANIK BAGH PALACE, INDORE
452001

COMMISSIONER, CUSTOMS & CENTRAL EXCISE

M/S MITTAL APPLIANCES LTD.

Appellant

Vs
Respondent

I am directed to transmit herewith a certified copy of **Final order No. C/81**

2009 CU[DB] dated 03.02.09

passed by the Tribunal under Section 129, (B) of the Customs Act, 1962 & Financial Act 1994 relating to Service Tax


Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent

M/S MITTAL APPLIANCES LTD., PLOT NO.75,

SECTOR-III, PITHAMPUR, DISTT. DHAR (M.P.)

2. Adv. / Consult MR. JAYDEEP WADGE, ADV.

10, BAIRATHI COLONY NO.1,

P.O. PAGNISPAGA, INDORE, M.P. 452 007.

3 S.D.R

4 J.C.D.R.

5 Bar association, CESTAT, New Delhi

6 M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017

7 M/s Centax Publications (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New - 3

8 Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)

9 Raghuraman's 44-B, Regal Flat, Shipra Suncity, Indirapuram - 201010, Ghaziabad, DT, U.P.

10 Nidheshak publications, I.P.Estate, new Delhi

11 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026

12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar, Chennai

13 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kunj, New Delhi - 110070

14 Easy Service Tax Online Dot Com Pvt.Ltd.407A.Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15

15 Office Copy

16 Guard file


Assistant Registrar
(Customs Appeal Branch)

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi**

COURT NO. II

Customs Appeal No. 412 of 2006

CCE, Indore

Appellant

Versus

M/s Mittal Appliances Limited

Respondent

Appearance

Shri Vijai Kumar, Authorized Representative (Jt. CDR) – for the appellant.

Shri Jayadeep Wagde, Advocate – for the Respondent.

CORAM : **Hon'ble Shri D.N. Panda, Judicial Member**
Hon'ble Shri Rakesh Kumar, Technical Member

DATE OF HEARING : 03/02/2009.

Final Order No. C/81/09 Dated : _____

ORDER

Per. D.N. Panda :-

This appeal of Revenue is on a narrow compass. The question involved was whether materials before the learned Appellate Authority called for to grant relief to the appellant or required scrutiny by the learned Adjudicating Authority, when he had certain doubts. He was of the opinion in para '5' of the impugned order that the respondent was not given opportunity to explain its case. When he so appreciated that there was violation of the principles of natural justice, he would have done well to send the matter back for re-examination. We appreciate that the learned Appellate Authority below has co-terminus power to

consider a matter that was before him. But, if he entertains an appeal that called for scrutiny by an Adjudicating Authority below, that may oust jurisdiction of that Authority. We therefore send the matter back to the learned adjudicating authority who shall going through para '5' of the impugned order shall decide the matter independently on the basis of evidence and pleadings of the respondent, granting fair opportunity of being heard to both sides.

2. In the result, the matter is remanded setting aside the impugned order.

(Dictated and pronounced in open court)

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

PK