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

Appeal No. C/537 /2008 - CU[DB] WITH C/MISC/43/2009 Date 13/03/2009

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

To :
M/S TELETUBE ELECTRONICS LTD.
D-34-35, SECTOR-17, KAVI NAGAR
INDUSTRIAL AREA, GHAZIABAD.

M/S TELETUBE ELECTRONICS LTD. Appellant

Vs

C.C. (ICD) NEW DELHI Respondent

I am directed to transmit herewith a certified copy of **Final order No. C/107 2009 CU[DB]** dated 13.03.09 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
   C.C. (ICD) NEW DELHI
   ICD, TUGHLAKABAD, NEW DELHI 110020.
2. Adv. / Consult
   MR.PRIYADARSHI MANISH, ADV., 27, VIDYUT NIKUNJ,
   PLOT NO 112, I.P.EXTENSIOIN, PATPARGANJ, DELHI
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 Publictions (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)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

COURT NO. III

Custom Misc. Application No. 43 of 2009-Cus. and Custom Appeal No. 537 of 2008

(Arising out of Order-in-Original No. 31/2008 dated 7.4.2008 passed by Commissioner of Customs, New Delhi)

For approval and signature

HON'BLE MR. M. VEERAIYAN, TECHNICAL MEMBER
HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER

1.	**Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?**	No
2.	**Whether it would 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?**	Seen
4.	**Whether order is to be circulated to the Departmental authorities.**	Yes

M/s Teletube Electronics Ltd. Appellant

Vs.

CC, ICD, TKD, New Delhi Respondent

Appearance:
Shri P. Manish, Advocate - For appellant
Shri L.B. Yadav, SDR - For respondent

CORAM:
HON'BLE MR. M. VEERAIYAN, TECHNICAL MEMBER
HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER

Date of Hearing: 6.3.2009

Final Order No. C/107/09

Per M. Veeraiyan :

Heard both sides, for a while on the application for early hearing and we decided to finally dispose of the appeal, as only a very short point is involved.

2. Ld. Advocate submits that the appellant, a 100% EOU exported a consignment and which has to be re-imported as there was some technical problems in the consignment and the same have been rectified and exported though not within six months, normal period stipulated for such re-export. At the time of re-importation, a bond was executed with bank guarantee undertaking to export within six months. The Assistant Commissioner vide order dated 24.3.08 encashed the bank guarantee and thereafter Commissioner passed the impugned order dated 7.4.2008 confirmed the demand ~~and~~ of duty amounting to Rs.24,20,000/- without even issue of show-cause notice and without offering personal hearing.

3. Ld. DR submits that the condition of the notification in respect of re-import has not been satisfied in this case and no show-cause notice is envisaged in such a situation.

4. We have carefully considered the submissions. The submission made by the ld. Advocate deserves to be considered by the Commissioner before passing an order of demand. It is also not disputed that the time limit of six months prescribed for re-export is not a rigid one. The submission that the goods re-imported have been rectified and since re-exported has not been taken into account while passing the order. Therefore, we set aside the order of the Commissioner and remand the matter to the Commissioner to decide afresh after granting reasonable opportunity of hearing. The appellant shall produce the evidence relied upon by them within one month from the receipt of this order and the Commissioner

shall decide the issue ~~appeal~~ within 45 days thereafter and after granting reasonable opportunity of hearing to the appellant.

5. The appeal is allowed by way of remand. Misc. application is also disposed of.

(Dictated & pronounced in open Court)

(M. VEERAIYAN)
TECHNICAL MEMBER

(D.N. PANDA)
JUDICIAL MEMBER

RM