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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/391 /2006-409 /2006 - CU[DB]

Date 24/04/2009

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

To : COMMISSIONER OF EXCISE & CUSTOMS,
DELHI-IV COMMISSIONERATE, NEW CGO,
COMPLEX, NH-IV, FARIDABAD

COMMISSIONER OF EXCISE & CUSTOMS,DELHI -IV — Appellant

Vs

M/S GOOD YEAR INDIA LIMITED — Respondent

I am directed to transmit herewith a certified copy of **Final order No. C/132-150/ 2009 CU[DB]** dated 23.04.09 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 GOOD YEAR INDIA LIMITED
   MATHURA ROAD, FARIDABAD
2. Adv. / Consult
   MR.K.K ANAND, ADV., A-5,BASEMENT
   ,LAJPAT NAGAR-III NEW 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 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
(Customs Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI

<u>COURT – II</u>

<u>CUSTOMS APPEAL NO. 391 to 409 of 2006-CUS</u>

[Arising out of Order-in-Appeal No. 3 to 21/Cus/Appl/DLH-IV/2006 dated 17.03.2006 passed by the Commissioner of Central Excise (Appeals), Delhi-I, New Delhi]

For approval and signature:

Hon'ble Dr. C. Satapathy, Member (Technical);
Hon'ble Mr. D.N. Panda, Member (Judicial)

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 would 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?	

CCE, Delhi-IV — Appellant

Vs.

M/s. Good Year India Ltd. — Respondents

Appearance:

Shri A.K. Madan, S.D.R. for the Revenue;
Shri K.K. Anand, Advocate for the respondent

Coram:

Hon'ble Dr. C. Satapathy, Member (Technical)
Hon'ble Mr. D.N. Panda, Member (Judicial)

Date of hearing/decision: 23rd April, 2009

FINAL ORDER NO. C/132-to 150/09 **dated** __________

Per C. Satapathy:

Heard both sides.

2. Shri A.K. Mandan, learned SDR appearing for the department states that 19 appeals have been filed by the department involving a common issue, as to when basic duty is exempted under DEPB Scheme, whether Education Cess is leviable or not? He also fairly states that the issue involved in these cases already stands decided by the Tribunal's decision in the case of C.C., Mumbai vs. Reliance Industries Ltd., reported in 2005 (188) ELT 449 (Tri.-Mumbai). He further states that the Department has gone in appeal against the said order of the Tribunal before the Hon'ble Bombay High Court but no stay against the impugned order is granted by the Hon'ble High Court.

3. We have heard learned Advocate Shri K.K. Anand who challenges the appeals of the Department on the strength of decision of the Tribunal in the case of Reliance Industries Ltd. (supra). He states that the said decision has to be followed.

4. After hearing both sides and on perusal of the records, we are of the view that since there is no stay granted by the Hon'ble High Court against the impugned order, ratio of the decision of the Tribunal in the case of Reliance Industries Ltd. has to be followed in this case. Accordingly, all the 19 appeals filed by the Department are dismissed.

(Dictated & pronounced in the Open Court.)

(C. SATAPATHY)
MEMBER (TECHNICAL)

(D.N. PANDA)
MEMBER (JUDICIAL)

RK