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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/67 /2009 - CU[DB]

Date 14/05/2009

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

To :
M/S K.A ENTERPRISES,
FLAT NO.5, 2ND FLOOR, F-BLOCK, GUPTA
APARTMENTS, IGNOU ROAD, NEW DELHI.

M/S K.A ENTERPRISES,

Appellant

Vs

C.C. NEW DELHI (IMPORT & GENERAL)

STAY ORDER NO.C/79/09

Respondent

I am directed to transmit herewith a certified copy of **Final order No. C/186/**

2009 CU[DB] dated 08.05.09

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. NEW DELHI (IMPORT & GENERAL), NEW CUSTOM HOUSE,
NEAR I.G.I. AIRPORT, NEW DELHI 110037.

2. Adv. / Consult

MR.PRABHAT KUMAR,
B-51(BASEMENT)SARVODAYA ENCLAVE NEAR MOTHER
INTERNATIONAL SCHOOL NEW DELHI - 17.

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 Publications 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 (Harvana)

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 - 110 066.
Principal Bench, New Delhi**

COURT NO. II

**Customs Stay Application No. 307 of 2009 in Appeal No. 67 of
2009**

M/s K.A. Enterprises

Appellant

Versus

CC, New Delhi

Respondent

Appearance

Shri Prabhat Kumar, Advocate - for the appellant.

Shri Fateh Singh, Authorized Representative (DR) - for the
Respondent.

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

DATE OF HEARING : 30/04/2009.

Final
Stay Order No. C/186/09
C/79/09
ORDER

Order No. C/186/09 Dated : _____
C/79/09

Per. D.N. Panda :-

Learned Counsel Shri Prabhat Kumar submits that the learned
Commissioner who had passed the order has not brought out the
exigency in para 5 of the order to demonstrate invoking of provision
under Regulation 20 (2) of CHA Regulation 2004 is unwarranted. We
are satisfied that the exigencies not being present by a speaking order,
the appellant deserves to be heard following principles of natural

justice. To say so, we find support from the judgment of Hon'ble High Court of Delhi in the case of **International Cargo Services vs. Union of India** reported in **2006 (193) E.L.T. 546 (Delhi)**. The Hon'ble High Court has held in para 14 of the judgment that the emergency provisions may be invoked without taking recourse to the principle of natural justice. But the order has to demonstrate such a situation.

2. Learned DR appearing for Revenue supports the order of the authority below. Following the ratio laid down by Hon'ble High Court of Delhi, we direct the learned Commissioner to hear the appellant and pass a reasoned and speaking order to meet the end of justice. It would be proper for the learned Commissioner to expeditiously dispose of the matter when the gravity of the issue appears to be serious. In the result, we remand the matter to the learned Commissioner to dispose the matter. In view of such order, we do not consider the stay application to survive further and dismiss the same.

(Dictated and pronounced in open court)

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

PK