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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/52 /2007 - CU[DB]

Date 03/08/2009

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

To : INDIAN DYE CHEM

DURGA HOUSE, D-9, RANA PRATAP BAGH,
MAIN G.T. ROAD, DELHI-110007

INDIAN DYE CHEM

Appellant

C.C. DELHI

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. C/35/ 2009 CU[DB] dated 28.07.09
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. DELHI

ICD, TUGHLAKABAD, NEW DELHI.

2. Adv. / Consult

MR.H.S.MEW, ADV., 52 B, UPKAR APPTS,

MAYUR VIHAR PHASE EXTN, DELHI-91

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 Kuni, New Delhi - 110070

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

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

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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. 52 of 2007

DATE OF HEARING : 22/7/09.

M/s India Dye Chem

Appellant

Versus

CC, ICD, Delhi

Respondent

Appearance

Shri H.S. Mew, Advocate – for the appellant.

Shri Vijai Kumar, Authorized Representative (SDR) – for the Respondent.

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

Final Order No. C/335709 Dated : _____

ORDER

Per. D.N. Panda :-

Learned counsel Shri H.S. Mew is very fair to say that when the appeal was filed, the appellant conceived that there was a cause but the legal development thereafter, throws light that the

appellant has no cause for further persuasion of the appeal. Therefore, the appeal should face its fate in accordance with law.

2. Shri Vijay Kumar, learned DR submits that ^{when} there is no right there shall be no enforcibility. In absence of refund order, there cannot be claim. This he says getting supports from judgment of Apex Court in the cases of **Priya Blue Industries Ltd. vs. CC (Preventive)** reported in **2004 (172) E.L.T. 145 (S.C.)** and **CCE, Kanpur vs. Flock (India) Pvt. Ltd.** reported in **2000 (120) E.L.T. 285 (S.C.)**.

3. Heard both sides for some time.

3.1 Record does not contain any document to show right of the appellant to any refund. If there is no right, there cannot be any direction for enforcibility thereof. The assessment made earlier had not resulted in refund. Had that assessment ^{been} modified by any Appellate Authority to result in refund that would have certainly received our attention in this appeal. Therefore the appeal is dismissed.

(Dictated and pronounced in open court)

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

PK