

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

Appeal No. C/524 /2009 - CU[DB], C/S/2290/09, C/COD/147/09

Date 11/11/2009

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

To :
SHIVA TEXTILE
9-10, BHAMIA ROAD,
NEAR AMBAR RESORT, LUDHIANA.
SHIVA TEXTILE

Appellant

Vs

Respondent

C.C. (ICD) NEW DELHI S.O.NO.C/282/09, M.O. NO.C/120/09

I am directed to transmit herewith a certified copy of Final order No. C/414/ 2009 CU[DB] dated 09.11.09
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. HEMANT BAJAJ, 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 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, Indrapuram - 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 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)

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Assistant Registrar
(Customs Appeal Branch)

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II**

C/GOD 147/09, C/S 2290/09, C/Appeal No.524/09-Cus(Br)

(Arising out of order in original No. 4/2009 dated 9.1.2009 passed by the Commissioner of Central Excise, TKD, New Delhi)

M/s Shiva Textiles

Appellant

Vs

CC, New Delhi

Respondent

Appeared for the Appellant
Appeared for the Respondent

: Shri Hemant Bajaj, Advocate
: Shri Sansar Chand, SDR

Coram: **Hon'ble Mr. M. Veeraiyan, Technical Member**
Hon'ble Mr. D.N. Panda, Judicial Member

Date of Hearing: 30.10.09

Final Order No. *C/414/09* /2009
Stay Order No *C/282/09* *Misc Order* *C/120/09*
Per D.N. Panda:

Learned Counsel Shri Hemant Bajaj submits that there was no deliberate delay in preferring appeal before the Tribunal since no one prefers to cause prejudice to himself without seeking appeal remedy. Learned DR does not object. Delay is condoned and appeal is admitted.

2. Shri Bajaj submits that opportunity of hearing was not granted to the appellant to place its case before the learned Authority below. This violates provision of Section 124 of Customs Act, 1962. According to him, when law mandates to follow process of natural justice, Authorities are expected to pass order following such mandate.

3. Grievance aforesaid compels us to dispose the appeal expeditiously to save delay for affording opportunity of hearing to the appellant for a fair trial by authority below. Accordingly, dispensing pre-deposit, we take up the appeal itself for disposal.

We consider that keeping the matter pending before us shall serve no useful purpose of law when huge penalty of Rs.25 lakhs has been levied without following due process of justice. Therefore, to do justice to both sides, we dispose of the appeal setting aside the impugned order and remand the matter to the learned Adjudicating Authority to grant fair opportunity of hearing to the appellant and pass a reasoned and speaking order expeditiously in accordance with law.

5. In the result, Application for COD, Stay application and Appeal are disposed of in above terms.

(Order dictated and pronounced in the open Court).

(M. Veeraiyan)
Technical Member

MPS*

(D.N. Panda)
Judicial Member