TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066

CUSTOMS APPEAL BRANCH

Appeal No. C/596 /2009 - CU[DB], C/S/2771/09 Date 20/11/2009

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

To :
M/S BIRLA VXL LIMITED,
UNIVERSAL CLOTHING, 14/5, MATHURA ROAD,
FARIDABAD (HARYANA)

M/S BIRLA VXL LIMITED, Appellant

Vs

C.C.(PREVENTIVE) **STAY ORDER NO.C/286/09** Respondent

I am directed to transmit herewith a certified copy of **Final order No. C/418/ 2009 CU[DB]** dated 18.11.09 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.(PREVENTIVE), NEW CUSTOM HOUSE,
   NEAR I.G.I. AIRPORT, NEW DELHI 110037.
2. Adv. / Consult
   MR.MARS & PARTNERS,ADV & SOLICITORS
   A-415, DEFENCE COLONY, LGF, N. DELHI.110024
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)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
BENCH-DB

C/Stay/2771/09 in Appeal No.C/596/2009

(Arising out of Order-in-Appeal No.135/2009 dated 21.05.2009 passed by the Commissioner of Customs (Appeals), New Customs House, New Delhi)

**Date of Hearing/Decision: 16.11.2009**

M/s.Birla VXL Limited — Appellant

Vs.

CC, New Delhi — Respondent

Present for the Appellant : Shri Tushar Jain, Advocate
Present for the Respondent: Shri S.R.Meena, SDR

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

Final **ORDER** No C/418/09
Stay Order No C/286/09

**PER: D.N.PANDA**

Learned Commissioner (Appeals) dismissed the appeal of the appellant noticing that pre-deposit of Rs.60 lakhs was not made for purpose of hearing appeal. Aggrieved ~~with~~ by the order of Commissioner (Appeals), the appellant is in appeal as well as with stay application before us.

2. Learned Counsel appearing for the appellant submits that export obligation certificate, not being available with them at the time of hearing of stay application as well as appeal, Appellant has suffered .. before the first appellant authority below. Subsequent to passing of impugned order dated 21.5.2009, export obligation certificate has been obtained which is appearing at page 19 of

appeal folder. Therefore, he submits that if the matter is sent back to the learned Commissioner (Appeals) with the direction that without insisting any pre-deposit, he shall hear the appeal on merits, the appellant shall have no grievance.

3. Learned SDR does not disagree with the averments made by the learned Counsel.

4. Heard both sides.

5. To do justice to the appellant, we send the matter back to the learned Commissioner (Appeals) to hear the case on merits without insisting pre-deposit in this case when the appellant has come out with the documents available at page 19 of the appeal folder. Appellant is directed to file their defence with relevant evidence before the learned Commissioner (Appeals) on or before 21st December, 2009. When such evidence is filed, the Commissioner (Appeals) shall fix the date for hearing and dispose off the matter in accordance with law.

6. In the result, both stay application and appeal are disposed of in the above terms.

(M.VEERAIYAN)
TECHNICAL MEMBER

(D.N.PANDA)
JUDICIAL MEMBER

mk