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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/381 /2009,382 /2009-384 /2009 - CU[DB] Date 11/12/2009

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

To :
M/S DEEP OVERSEAS,

145/1, KHERA GARHI, G.T.KARNAL ROAD, DELHI.

M/S DEEP OVERSEAS, Appellant

Vs

C.C.E. DELHI I Respondent

I am directed to transmit herewith a certified copy of **Final order No.** C/420-422/ 2009 CU[DB] dated 30.11.09 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.E. DELHI I, C.R. BUILDING,
   I.P. ESTATE, NEW DELHI 110002
2. Adv. / Consult
   MR.K.K ANAND, 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)

18. M/S RAJENDER PRASAD GUPTA,
    R/O 45, ENGINEERS ENCLAVE,
    PITAMPURA, DELHI.

19. MR. NARINDER KUMAR GUPTA,
    9/52. J.B. NAGAR, ANDHERI (E),
    MUMBAI.

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Customs Appeal No. 381 of 2009

(Arising out of Order-in-Original No. 01-04/2009 dated 27.01.2009 passed by the Commissioner Central Excise, Delhi-I).

DATE OF HEARING : 30.11.2009
DATE OF DECISION : 30.11.2009

FOR APPROVAL AND SIGNATURE :

HON'BLE MR. JUSTICE R.M.S. KHANDEPARKAR, PRESIDENT
HON'BLE MR. RAKESH KUMAR, MEMBER (TECHNICAL)

1.	Whether Press Reporters may be allowed to see the order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982 ?	Yes
2.	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not ?	NO
3.	Whether their Lordships wish to see the fair copy of the Order ?	Seen
4.	Whether Order is to be circulated to the Departmental Authorities?	Yes

M/s Deep Overseas .... **Appellants**
(Rep by Sh. K.K. Anand, Adv.)

VERSUS

CCE, Delhi .... **Respondent**
(Rep. by Sh. S. Shah, DR)

AND

(ii) Customs Appeal No. 382 of 2009

Mr. Narender Kr. Gupta .... **Appellant**
(Rep by Sh. K.K. Anand, Adv.)

VERSUS

CCE, Delhi .... **Respondent**
(Rep. by Sh. S. Shah, DR)

AND

(iii) **Customs Appeal No. 384 of 2009**

Mr. Rajender Prashad Gupta .... **Appellant**
(Rep by Sh. K.K. Anand, Adv.)

VERSUS

CCE, Delhi .... **Respondent**
(Rep. by Sh. S. Shah, DR)

CORAM : HON'BLE MR. JUSTICE R.M.S. KHANDEPARKAR, PRESIDENT
HON'BLE MR. RAKESH KUMAR, MEMBER (TECHNICAL)

Final ORAL ORDER NO. C/420 to 422/09

PER JUSTICE R.M.S. KHANDEPARKAR :

In terms of order dated 31st August, 2009, the appellants were required to deposit a sum of Rs. 60 lacs along with sum of Rs. 5 lacs and Rs. 3 lacs respectively and to file the compliance report on 9th November, 2009. When the matter had come up for compliance report on 9th November, 2009, it was informed by the learned advocate for the appellants that, he had no instructions in the matter nor he was aware whether any amount in terms of the stay order has been deposited or paid. Records also did not disclose that the appellants had complied with the requirement of pre-deposit in terms of the stay order. In those circumstances, it was observed that, the consequences contemplated under Section 129-E of the Customs Act, 1962 were bound to follow. However, before passing any order in that regard, opportunity was directed to be given to the appellants to satisfy the Tribunal as to why the appeals should not be dismissed for non-compliance of the requirement regarding pre-deposit and for that purpose the matter was fixed today.

2. When the matter is called out, the learned advocate for the appellants stated that, he has no instructions in the matter particularly as regard the deposit in terms of the said stay order. Records do not disclose that the appellants having complied with the stay order. In the circumstances, the appellants having neither complied with the requirement of pre-deposit nor having shown any cause for non-dismissal of the appeals pursuant to the failure to comply with the requirement of pre-deposit, the appeals are liable to be dismissed and are accordingly hereby dismissed.

3. Copy of this order should be placed in the file of Customs Appeal No. 383 of 2009.

(JUSTICE R.M.S. KHANDEPARKAR)
PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

Golay