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

Appeal No. E/2857/2009 - EX[DB] WITH E/S/2942/2009-EX

Date 19/02/2010

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

To :
M/S KAY BOUVET ENGG. PVT. LTD.
HOTEL SAPPHIRE COMPLEX (3RD FLOOR),
JAGADHARI, DISTT. YAMUNA NAGAR-
135003.(HARYANA)

M/S KAY BOUVET ENGG. PVT. LTD. Appellant

Vs

C.C.E. PANCHKULA Respondent

STAY ORDER NO.111/2010-EX

I am directed to transmit herewith a certified copy of **Final order No. 64/ 2010 EX[DB]** dated 15-2-2010 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
   C.C.E. PANCHKULA
   SCO NO. 407 AND 408, SECTOR 8, PANCHKULA (HARYANA) 134119.
2. Adv. / Consult
   MR.AALOK ARORA, ADVOCATE
   82-MISSION COMPOUND, SAHARANPUR-247001 (U.P.)
3. C.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
18. HON'BLE PRESIDENT.

Assistant Registrar
(Excise Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Excise Stay Application No. 2942 of 2009 in
Excise Appeal No. 2857 of 2009

DATE OF HEARING : 15.02.2010
DATE OF DECISION : 15.02.2010

M/s Kay Bouvet Engg. (P) Ltd. ..... **Applicants**
(Rep by Sh. Alok Arora, Adv.)

VERSUS

CCE, Panchkula ..... **Respondent**
(Rep. by Shri Sunik Kumar, DR)

CORAM : **HON'BLE MR. JUSTICE RMS KHANDEPARKAR, PRESIDENT**
HON'BLE MR. RAKESH KUMAR, MEMBER (TECHNICAL)

Stay **ORAL ORDER NO.** 111/2010-Ex

PER JUSTICE R.M.S. KHANDEPARKAR :

Upon hearing the learned advocate for the applicants and willingness expressed on behalf of the applicants to deposit a sum of Rs. 3 lacs (rupees three lacs only) within six weeks, we dispose of this application while allowing the same and directing the registry to place the appeal no. E/2857 of 2009 for hearing forthwith. Application accordingly stands disposed of.

(JUSTICE R.M.S. KHANDEPARKAR)
PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

Golay

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Excise Appeal No. 2857 of 2009

(Arising out of Order-in-Appeal No. 180/MA/PCK/2009 dated 27.07.2009 passed by the Commissioner (Appeals), Central Excise, Delhi-III).

DATE OF HEARING : 15.02.2010
DATE OF DECISION : 15.02.2010

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 Kay Bouvet Engg. (P) Ltd. ..... **Applicants**
(Rep by Sh. Alok Arora, Adv.)

VERSUS

CCE, Panchkula ..... **Respondent**
(Rep. by Shri Sunik Kumar, DR)

CORAM : **HON'BLE MR. JUSTICE RMS KHANDEPARKAR, PRESIDENT**
HON'BLE MR. RAKESH KUMAR, MEMBER (TECHNICAL)

Final **ORAL ORDER NO.** 64/2010 - Ex

PER JUSTICE R.M.S. KHANDEPARKAR :

The appeal is being taken up for hearing pursuant to the order passed today in stay application no. E/2942 of 2009.

2. This appeal arises from the order dated 27th July, 2009 whereby the appeal filed by the appellants before the Commissioner (Appeals), Delhi, has been dismissed for non-compliance of the order passed under Section 35F of the Central Excise Act, 1944. By order dated 09th July, 2009, the Commissioner (Appeals) by way of interim order under Section 35F of the said Act had directed the appellants to deposit a sum of Rs. 3 lacs out of the total demand of around Rs. 28 lacs and odd including the penalty. The compliance was to be filed on 27th July, 2009. The appellants did not deposit the said amount and instead filed an application for modification of the stay order. The same came to be dismissed by the impugned order along with the dismissal of the appeal.

3. The learned advocate has expressed willingness to deposit the said amount of Rs. 3 lacs (rupees three lacs only) within six weeks. We accept the said statement and grant six weeks' time to the appellants to deposit a sum of Rs. 3 lacs out of the total demand made in the adjudication order and on deposit of the said amount, we direct the Commissioner (Appeals) to restore the appeal and hear the same on merits. Needless to say that, in case of failure on the part of the appellants to deposit the aforesaid sum of Rs. 3 lacs within six weeks, the order which is being passed today would stand automatically vacated and the appeal would stand dismissed. We make it clear that we have not expressed any opinion on the merits of the case. With these observations, we dispose of the appeal with the direction to the Commissioner (Appeals), as above.

(JUSTICE R.M.S. KHANDEPARKAR)
PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

Golay