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/143 /2007-146 /2007 - CU[DB] Date 22/04/2010

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

To :
M/S ACE MICROELECTRONICS PVT. LTD.
B-120, KALKAJI (BASEMENT), NEW DELHI

M/S ACE MICROELECTRONICS PVT. LTD. Appellant

Vs

C.C.E. JAIPUR Respondent

I am directed to transmit herewith a certified copy of **Final order No. C/66-69/2010 CU [DB]** dated 21.04.2010 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. JAIPUR, NCRB, STATUE CIRCLE,
   C-SCHEME, JAIPUR-302005.

2. Adv. / Consult
   MR.L.P. ASTHANA, ADV., R-163, SECOND FLOOR,
   GREATER KAILASH-1, NEW DELHI - 110 048.

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 Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9 M/s. Deeparchie Publications. M-93. Marg. 46. Saket. New Delhi 110017
10 Taxmann Allied Service Pvt Ltd.. 59/32. New Rohtak Road. New Delhi - 110005
11 Easy Service Tax Online Dot Com Pvt.Ltd.407A.Iscon Mall.Above Star India Bazar.Satellite Road.Ahmedabad-15
12 LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Haryana)
13 Office Copy
14 Guard file

Assistant Registrar
(Customs Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI PRINCIPAL BENCH, COURT NO. II

Customs Appeal No. 143-146 of 2007 (Cus.Br.)

[Arising out of Order-in-Appeal No. 630-633(HKS)/CUS/JPR II/2006 dated 24.11.2006 passed by Commissioner of Customs & Central Excise (Appeals II), Jaipur, Rajasthan.]

For approval and signature:

Hon'ble Dr. C. Satapathy, Member (Technical)
Hon'ble Mr. D.N.Panda, Member (Judicial)

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?	Yes
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. Ace Microelectronics Pvt. Ltd. Appellants

Vs.

Commissioner of Customs Respondent
Jaipur

Appearance: Mr. L.P. Asthana & Shri A. Jaju Advocates for the Appellants
Mr. Vijay Kumar, SDR for the Respondent

CORAM: Hon'ble Dr. C. Satapathy, Member (Technical)
Hon'ble Mr. D.N.Panda, Member (Judicial)

Date of Hearing/decision : 19.4.2010

Final **ORDER NO. C/66-69/10**

Per Dr. C. Satapathy (for the Bench):

Heard both sides at length. The dispute in this case relates to the imported cables for which the appellants are claiming exemption under Notification No. 21/02-Cus dated 1.3.2002-S. No. 340, which reads as under:-

340.	8544.41 or 8544.49	Electric conductors, for a voltage not exceeding 80V, of a kind used for telecommunications	10%	-	-

2. It is the department's case that the imported cables have a voltage exceeding 80 Volts and hence, the exemption is not available to the same which the appellants are contesting. We find that the authorities below have taken into consideration the reports from the Director and Head of the Department of Electrical Engineering, MBM Engineering College, J. N.V. University, Jodhpur, who has certified after testing that the cable has withstood 250 Volts for five hours without any damage. The department has also gone by the catalogue which indicates 300 Volts which is much higher than 80 Volts prescribed in the notification.

3. Shri L.P. Asthana, learned Advocate for the appellants argues that there is a clarification from the supplier to the effect that 300 Volts is the break down voltage. However, we find that the department has obtained a report from the Electronics Test and Development Centre, Jaipur established under STQC, Directorate of Information Technology,

Government of India, Jaipur, which has certified that there is no break down observed at 300 Volts in respect of the impugned conductors. Hence, the submissions of the appellants to explain away 300 V indicated on the catalogue can not also be accepted.

4. After considering all the aspects of the case, we are of the view that the appellants have not made out a case for availing the exemption in question. Hence, the orders passed by the authorities below rejecting the refund claim of the appellants in respect of the higher duty initially paid by them do not require any interference. Consequently, all the four appeals are rejected.

(Dr. C. Satapathy)
Technical Member

(D.N.Panda)
Judicial Member

ss