

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

Appeal No. C/97 /2010 - CU[DB], C/S/566/2010

Date 01/10/2010

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

To :
I.L.K IMPEX, D-177-A/1, PHASE V,
FOCAL POINT LUDHIANA(PB)- 141010

I.L.K IMPEX

Appellant

C.C. (ICD) NEW DELHI

Vs
Respondent

Stay Order No. C/117/2010

I am directed to transmit herewith a certified copy of **Final order No. C/146/ 2010 CU[DB]** dated 27.09.2010
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. ICD, TUGHLAKABAD,
NEW DELHI 110020.

2. Adv. / Consult

MR.S.K.PAHWA, ADV, D-75, AMAR COLONY,
LAJPAT NAGAR-IV, NEW 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 Publications 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 (Harvana)

13 TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor, Vasant Arcade, Nelson Mandela Road, Vasant Kunj, New
Delhi - 110070

14 Office Copy

15 Guard file

Assistant Registrar
(Customs Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
Court No.IV

~~Stay~~ No.566/10, ~~Appeal~~ No.97/2010

(Arising out of order in appeal No.CC(A)Cus/ICD/13/2010 dated 21.1.10 passed by the Commissioner of Central Excise (Appeals), New Delhi)

Date of Hearing: 24.9.2010

For approval and signature:

Hon'ble Shri M.V. Ravindran, Member (Judicial)
Hon'ble Shri M. Veeraiyan, Member (Technical)

1. Whether Press Reporters may be allowed to see Under Rule 27 of the CESTAT (Procedure) Rules, 1982?

2. Whether it should be released under Rule 27 of the CESTAT(Procedure) Rules, 1982 for publication in any authoritative report or not?

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 I.L.K Impex

Appellants

Vs

CC, New Delhi

Respondent

Appeared for the Appellant: Shri S.K Pahwa, Advocate
Appeared for the Respondent: Shri K.K. Jaiswal, DR

Coram: **Hon'ble Shri M.V. Ravindran, Member (Judicial)**
Hon'ble Shri M. Veeraiyan, Member (Technical)

Final ORDER No. C/1146/10
Per M.V. Ravindran: *Stay order No.C/117/10*

This stay application is filed by the applicant for waiver of pre-deposit of the amount confirmed by the adjudicating authority and upheld by the learned Commissioner (Appeals) by the impugned order.

2. After hearing both sides on the stay application, we find that the appeal itself can be disposed of. Application for waiver of pre-deposit is allowed and the appeal itself is taken up for hearing.

3. Learned Counsel submits that the first Appellate Authority vide order dated 4.12.2009 had directed the appellants to deposit an amount of Rs. 2 lakhs within 30 days and submit the proof. The appellants deposited the amount through TR-6 challan and submitted the proof to Commissioner (Appeals) on 21.1.2010. The impugned order is passed on 20.1.2010 without considering this factual position

4. In our considered view, there appears to be overlapping of information submitted by the appellants regarding the compliance of the order passed by the Commissioner. The Commissioner has passed the order dismissing the appeal filed for non-compliance and has not recorded any findings on the merits of the case. Since there is compliance of the stay order, we set aside the impugned order and remand the matter back to the learned Commissioner (Appeals) to reconsider the issue on merits after following the principles of natural justice. The appeal is allowed by way of remand. The stay application also stands disposed of

(M.V. RAVINDRAN)
Judicial Member

(M. VEERAIYAN)
Technical Member

MPS*