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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/919 /2006 - EX[DB] Date 01/01/2010

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

To :
CCE,JALANDHAR
DIV-I,JALANDHAR,MODEL TOWN
ROAD,JALANDHAR
CCE,JALANDHAR Appellant
Vs
M/S BLISS ENTEPRISES Respondent

I am directed to transmit herewith a certified copy of **Final order No. 1409/ 2009 EX[DB]** dated 29-1209 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :
1. Respondent
   M/S BLISS ENTEPRISES
   D-37,SPORTS & SURGICAL COMPLEX,KAPUTHALA ROAD,JALANDHAR.
2. Adv. / Consult
   NONE

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

Assistant Registrar
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
NEW DELHI, PRINCIPAL BENCH NEW DELHI

Excise Appeal No.E/919 of 2006-Excise Branch

[Arising out of Order-in-Appeal No.293/CE/Jal/05 dated 30.11.2005 passed by the Commissioner of Central Excise (Appeals), Chandigarh]

Date of Hearing/ Decision:26.11.2009

For approval and signature:

Mr. M. Veeraiyan, Member (Technical)
Mr. D.N. Panda, Member (Judicial)

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1. Whether Press Reporters may be allowed to see 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? :

4. Whether Order is to be circulated to the Departmental authorities? :

CCE, Jalandhar ...Appellants
(Rep. by Shri Mahesa Rastogi, SDR)

Vs.

M/s. Bliss Enterprises ....Respondent
(Rep. by None.)

CORAM: **Hon'ble Mr. M. Veeraiyan, Member (Technical)**
Hon'ble Mr. D.N. Panda, Member (Judicial)

FINAL Order No. 1909/09-EX /Dated:26.11.2009

Per D.N. Panda:

None present for the respondent.

2. Ld. DR submits that when the Notification through para-2 thereof clearly exhibits that Respondent had exercised option before effecting

the first clearances of specified goods in terms of Notification No.10/99-dated 28.02.1999 it had no right to opt out from such option till end of the relevant financial year. He submits that in para-2 of the Notification, there is a mandate for exercise of the option subject to further conditions prescribed by that notification. Once an assessee choose to exercise option, he subjects himself to other conditions of the notification. Ld. Adjudicating Authority as well as Appellate Authority did not subject the respondent to adherence to the conditions of notification when option was exercised. A view contrary to the mandate of the notification was taken by Authorities below. He accordingly prays that if notification is given full play in respect of exercise of the option and law relating to consequence of option under the notification for availing SSI exemption, the matter can be said to have been dealt in accordance with law. The matter therefore calls for grant of an opportunity to the learned adjudicating authority to examine contents of the notification properly and deal the matter appropriately to protect interest of Revenue.

3. Heard Revenue.

4. We have no difference of opinion on the proposition that when an assessee exercises option to govern itself for SSI exemption, law relating to such option is to be followed. Having noticed that the respondent has exercised option as apparent from the show cause notice, ld. Adjudicating Authority shall examine the law relating to the option in terms of

notification no.10/99 dated 28.02.99 and re-do the adjudication afresh in accordance with law. Accordingly, order of the learned Adjudicating Authority as well as of learned Appellate Authority are set aside to deal the matter afresh by learned Adjudicating Authority granting an opportunity of hearing to both the sides. We expect that learned adjudicating authority shall pass a reasoned and speaking order.

5. In the result, both the orders are set aside and the matter is remanded to the ld. Adjudicating Authority.

Order dictated & pronounced in open Court on 26.11.2009.

(M. Veeraiyan)
Member (Technical)

(D.N. Panda)
Member (Judicial)

Ckp.