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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
SINGLE MEMBER APPEAL BRANCH

Appeal No. **E/4043/2010 – SM[BR] E / STAY / 3941/2010-SM[BR]** Date **30/06/2011**

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

To :
C.C.E. CHANDIGARH
C.R. BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH 160017
C.C.E. CHANDIGARH Appellant
Vs
M/S ASHOKA SPANNERS PVT. LTD., Respondent

I am directed to transmit herewith a certified copy of **Final order No.360/2011-SM[BR]&S/310/2011** Dated 24.6.2011 passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
M/S ASHOKA SPANNERS PVT. LTD.,
PLOT NO. 88-89, INDUSTRIAL
AREA, BADDI, DISTT. SOLAN (HP)

2. Adv. / Consult MS. SUKRITI DAS ADV.
B-1/1289-A, VASANT KUNJ NEW DELHI

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi -
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file

Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing : 24.6.2011

Excise Appeal No. 4043 of 2010-SM and Stay No. 3941 of 2010-SM

[Arising out of the Order-in-Appeal No. 126-127/CE/CHD-I/2010 dated 31.8.2010 passed by the Commissioner (Appeals), Central Excise, Chandigarh]

Coram:

Hon'ble Mr. Mathew John, Member (Technical)

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

CCE, Chandigarh Appellant

Vs.

M/s Ashoka Spanners Pvt. Ltd. Respondent

Appearance:

Appeared for Appellant : Ms. Renu Jagdave, SDR
Appeared for Respondent : Ms. Sukriti Das, Advocate

CORAM: Hon'ble Mr. Mathew John, Member (Technical)

Final Order No. 360/2011 SM (BR) & S-310/2011 SM (BR) dated............

Per Mathew John:

This is a case where an amount of Rs.4,03,340/- has been sanctioned to the Respondent as rebate on goods exported by the Respondent. The Revenue felt that the Respondent was not eligible for such rebate and issued a Show Cause Notice dated 4.10.2006 for recovery of such rebate sanctioned. The matter was adjudicated vide order dated 2.4.2009 confirming the demand for the said amount along with interest under Section 11AB of the Act. Further, a penalty equal to the said duty amount was imposed on the Respondent under Rule 25 of the Central Excise Rules. Aggrieved by the order, the Respondent filed an Appeal with the Commissioner of Central Excise (Appeals) who set aside the ~~impugned~~ said order and allowed the Appeal of the Appellant. Aggrieved by the order of the Commissioner (Appeals), Revenue has filed this Appeal.

2. Heard both sides briefly.

3. It is seen that the impugned matter relates to rebate of duty of excise on goods exported out of the country. Section 35B of the Central Excise Act, 1944 specifically provides that no appeal shall lie to this Appellate Tribunal and this Appellate Tribunal shall not have jurisdiction to decide any appeal in respect of any matter if such matter relates to rebate of duty of excise on goods exported or any excisable materials used in the manufacture of goods exported. Therefore, the Appeal filed before this Tribunal is not maintainable. Therefore, the stay petition and Appeal are dismissed since the Tribunal has no jurisdiction to deal with the matter.

(Pronounced in open Court)

(Mathew John)
Member (Technical)

RM