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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/966 - 967 / 2005 –SM[BR] **Date 30/08/2011**

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

1. **LML LIMITED**
2. **LML LIMITED**

C-10,PANKI INDUSTRIAL ESTATE KANPUR (U.P)

LML LIMITED Appellant

Vs

C.C.E. KANPUR Respondent

I am directed to transmit herewith a certified copy of **Final order No. 521 -522 /2011-SM[BR]** dated 17.8.2011 passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
C.C.E. KANPUR
117/7, SARVODAYA NAGAR,
KANPUR 208005.

2. Adv. / Consult
MR.R. SANTHANAM
C-3/210, JANAK PURI, NEW DELHI - 110 058.

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)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No. 2, R.K. Puram, NEW DELHI

COURT No. II

Excise Appeal No. 966-967 of 2005(SM)

[Arising out of Order-In-Appeal No.674/CE/APPL/KNP/04, dated 31.12.2004 issued by CCE, Kanpur].

Date of Hearing / Decision : 17.08.2011

For approval and signature:
Hon'ble Shri D.N.Panda, Judicial Member

1	Whether Press Reporters may be allowed to see the Order for publication as per 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?	
4	Whether Order is to be circulated to the Departmental authorities?	

M/s. LML Ltd. Appellant

Versus

CCE, Kanpur Respondent

Coram: **Hon'ble Mr. D.N.Panda, Judicial Member**

Present for the Appellant – Shri R.Krishnan, Clerk of Advocate
Present for Respondent – Shri Fateh Singh, DR

FINAL ORDER NO. 521-522/2011 SM (BR)

Per D.N. Panda:

This matter is appearing on the board from February, 2010. But not reaching to finality. The amount involved in both these two cases are very small ranging from Rs.29,000/- to Rs.50,000/. When refund arose in some cases, the authority below invoking section 11 of the Central Excise Act, 1944 adjusted such refund against amount due to the department. When statutory provision exists to protect interest of Revenue by such adjustment, there cannot be any interference to the order passed by appellate authority.

2. Adjournment after adjournment have been taken in this case for which the matter is not able to be finalized. Today also there is an adjournment application on the ground that the counsel is out of station for urgent personal reason. No adjournment has been allowed in these cases for pendency of the matter for nearly 6 years.

3. Ld. DR is heard. He brings out that the adjustment of the refund against liability under law was legitimately done. Therefore, the authorities below have passed right order.

4. This matter was earlier before Division Bench. On the request of the Ld. Counsel, Jurisdiction was looked into by the registry and that has been transferred to Single Member bench by order of Hon'ble President on 25.01.2011.

5. Appreciating the observations made by the first Appellate Authority and also for the decisions of the Tribunal in the case of Bajaj Auto Ltd. vs. CCE, Aurangabad reported in 2003(158)ELT217(Tri.Mumbai) and in the case of Soma Textiles & Industries Ltd. vs. CCE, Ahmedabad reported in 2009(233) ELT503(Tri.Ahmd.), there is no scope to interfere to first Appellate

order adjusting refund against liability for which both appeals are dismissed.

(Dictated and pronounced in the Open Court)

(D.N.Panda)
Judicial Member

RK-I