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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. ST/882 - 883 /2009 – SM [BR] Date 29/06/2010

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

To :
1. M/S TRIPLE 'A' WIRELINKS INDUSTRIES
2. M/S TRIPLE 'A' WIRELINKS INDUSTRIES

B-172, LOK VIHAR, PITAMPURA, DELHI-110034.

M/S TRIPLE 'A' WIRELINKS INDUSTRIES Appellant

Vs

C.C.E. CHANDIGARH Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 619 -620 / 2010 –SM[BR] dated 14.6.2010 passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent

   C.C.E. CHANDIGARH

   C.R. BUILDING, PLOT NO. 19, SECTOR 17-C, CHANDIGARH 160017
2. Adv. / Consult

   MR. T.R.RUSTAGI,ADVOCATE

   SD-84, TOWER APARTMENTS, PITAMPURA, DELHI-34

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 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
(SM Appeal Branch)

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

E/Appeal No.882-883/2009-SM

(Arising out of order in appeal No.288-289/cE/Chd/09 dated 20.8.09 passed by the Commissioner of Central Excise (Appeals), Chandigarh)

M/s Triple "A" Wirelinks Industries — Appellant

Vs

CCE, Chandigarh — Respondent

Appeared for the Appellant: Shri T.R. Rastogi, Advocate
Appeared for the Respondent: Shri R.K. Gupta, DR

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

Date of Hearing: 3.6.2010

Final ORDER NO. 619-620/2010-SM(BR)

Per D.N. Panda:

Learned Counsel appearing for the appellants submits that the learned Appellate Authority without looking to the mandate of section 85 of the Finance Act, 1995, was under the impression that 'date of communication of the impugned order' shall be the date for accounting limitation. But section 85 requires the appeal to be filed within three months of 'receipt of the impugned order'. This is quite a different mandate of law compared to the mandate in Central Excise Act, 1944 and Customs Act, 1962. Learned Counsel submits that such a fundamental difference should not be ignored while deciding the right of appeal. Therefore, learned Appellate Authority should admit the appeal itself which is within the limitation and decide the issues on merits.

2. Learned DR supports the order of learned Appellate Authority.

3. Heard both sides and perused the record.

4. Learned Counsel for the appellant is correct to bring the position of law under three different Statutes that is Central Excise Act, 1944, Customs Act, 1962 and Finance Act, 1994. It may be stated that the mandate of each Statute decides governance of matter falling under that Statute. This appeal being governed by Finance Act, 1994, Section 85 rules the issue. The limitation prescribed under this law is to be accounted from the date of receipt of the impugned order. Therefore, appellant's grievance is to be decided by the learned Appellate Authority on merit. It would be preferable for the Appellant to place the date chart before the learned First Appellate Authority along with statutory proviso of Section 85 of the Finance Act for his better appreciation and to consider the appeal on merit. Learned Authority shall do well to admit the appeal on his satisfaction of provision of law and also decide the matter in accordance with law on

the basis of merit granting fair opportunity of hearing and passing a reasoned and speaking order.

(Order dictated and pronounced in the open Court).

(D.N. Panda)
Judicial Member

MPS*