

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/ 831 / 2010-SM[BR] ST / STAY/ 1589 / 2010-SM[BR]

Date 07/12/2010

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

To :
C.S.T. DELHI
17-B, I.P. ESTATE, IAEA HOUSE, NEW DELHI.
C.S.T. DELHI

M/S BEN ENCON PVT. LTD.

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of **Final order** No. 1364/2010-SM[BR]&S/664/2010 dated 29.11.2010 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

M/S BEN ENCON PVT. LTD.

M-35, C.R. PARK,
NEW DELHI-110019

2. Adv. / Consult SHRI V.S. MISHRA ADV.

B-125 IInd FLOOR NIRMAN VIHAR
DELHI-92.

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
(SM Appeal Branch)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. III**

**Service Tax Appeal No. 831 of 2010-SM(BR)
Service Tax Stay Application No. 1589 of 2010-SM(BR)**

[Arising out of Order-in-Appeal No. 114/ST/D-II/2010 dated 19.3.2010
passed by the Commissioner of Central Excise (Appeals), New Delhi]

For approval and signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)

1. Whether Press Reporters may be allowed to see : *NO*
the Order for publication as per Rule 27 of the
CESTAT (Procedure) Rules, 1982?
 2. Whether it should be released under Rule 27 : *NO*
of the CESTAT (Procedure) Rules, 1982 for
publication in any authoritative report or not?
 3. Whether Their Lordships wish to see the fair : *Seen*
copy of the Order?
 4. Whether Order is to be circulated to the : *NO*
Departmental authorities?
-

Commissioner of Service Tax
Delhi

Appellants

Vs.

M/s. Ben Encon Pvt. Ltd.

Respondent

Appearance:

Shri Rajendra Gupta, SDR for the Appellants
Shri S.K. Bosi, Representative for the Respondent

Date of Hearing/decision : 29.11.2010

final

ORAL ORDER NO. 1364 / 2010 SM(BR) &
S - 664 / 2010 SM(BR)

Per M. Veeraiyan:

— Heard both sides.

2. This is an appeal filed by the department against the order of the Commissioner (Appeals) No. 114/ST/D-II/2010 dated 19.3.2010. At any rate, the stay petition has been filed without application of mind. Learned authorised representative appearing for the respondent submits that against the very same impugned order, the respondent filed the appeal and Tribunal has set aside the order of the Commissioner (Appeals) and remanded the matter to the original authority vide Final Order No. 952/10-SM(BR) and S/379/10 SM(BR) dated 10.8.2010 ~~and remanded the matter to the~~ *h*

h adjudicating authority.

3. In view of the above, the issues raised by the department in their appeal also requires to be considered afresh by the original authority. The appeal is disposed of with the direction that issues raised by the department shall be placed before the original authority as the orders of the lower authority has already been set aside and the matter is before the original authority for fresh consideration.

4. The appeal is disposed of. The stay petition is also disposed of.

(M. Veeraiyan)
 Member(Technical)

SS