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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/629 /2006 - EX[DB] Date 07/05/2010

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

To :
INDIRA PRINTERS.
C-63/5, OKHLA INDL. AREA PHASE-II, NEW DELHI

INDIRA PRINTERS. Appellant

Vs

CCE,DELHI-II Respondent

I am directed to transmit herewith a certified copy of **Final order No. 274/ 2010 EX[DB]** dated 29-4-10 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
   CCE,DELHI-II
2. Adv. / Consult
   MR.V. LAXMIKUMARAN
   B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029
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. 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. Office Copy
14. Guard file

Assistant Registrar
(Excise Appeal Branch)

15. Tax India Online.Com (P) Ltd.
    Unit No.1, 2nd Floor, Vasant Aracade, Nelson Mandela Road,
    Vasant Kunj, New Delhi-70

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
BENCH-DB

Excise Appeal No.E/629/2006-Ex. Br

[Arising out of Order-in-Original No.01/2006 dated 27.1.2006 passed by the Commissioner of Central Excise, New Delhi].

Date of Hearing :28.4.2010
Date of Decision: 28.4.2010

For approval and signature:

Hon'ble Dr.Chittaranjan Satapathy, Technical Member
Hon'ble Mr.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?	Yes
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
3	Whether Their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

M/s. Indira Printers ...Appellant

Vs.

Commissioner of Central Excise, Delhi-II ... Respondent

Present for the Appellant :Shri.B.L.Narasimhan, Advocate
Present for the Respondent :Shri. Fateh Singh, DR

Coram:Hon'ble Dr.Chittaranjan Satapathy, Technical Member
Hon'ble Mr.D.N.Panda, Judicial Member

Final **ORDER NO.** 274/10-Ex **DATED:28.4.2010**

PER: Dr.Chittaranjan Satapathy

Heard both sides. The appellants have procured duty free paper and PVC resin under Notification No.22/2003 dated 31.3.2003 being an EOU. They have produced 'books' which are neither dutiable under the Customs Law nor under the Excise law, some of which have been cleared in the DTA with the approval from the Development Commissioner. The period in question is from April 2003 to June 2005. The issue involves interpretation of second proviso to para 6 of the cited Notification. This paragraph has undergone an amendment w.e.f. 6.9.2004. Prior to that date the duty on inputs was payable if the finished goods sold in the DTA were non-excisable. After that date, input duty is payable if the finished goods are either not excisable or are exempted or charged to nil rate of duty.

2. Admittedly, the finished goods are excisable but were exempted or charged to nil rate of duty. Hence, we are of the view that for the period prior to 6.9.2004, the appellants are not required to pay the input duty. However, the same is payable on and after 6.9.2004. We take note of the fact that the appellants have paid the duty for the subsequent period from 6.9.2004. Since the issue involves interpretation of the Notification and also the assessments in respect of the EOU is provisional, we are of the view that there is no case of imposition of penalty on the appellants. Accordingly, we modify the impugned order in the above terms and allow the appeal partly.

(Pronounced in the Open Court)

(DR.CHITTARANJAN SATAPATHY)
TECHNICAL MEMBER

(D.N.PANDA)
JUDICIAL MEMBER

Anita