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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

Date 12/04/2010

Appeal No. E/1596/2009 - EX[DB]
E/S/1641/2009-EX

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

To :

DY. GM (FINANCE)/EXCISE CELL
M/S BHARAT HEAVY ELECTRICALS LTD., BLOCK
VI ANNEX WWGF,P.O. PIPLANI,

M/S BHARAT HEAVY ELECTRICALS LTD., Appellant

Vs

C.C.E BHOPAL Respondent

STAY ORDER NO. 258/2010-EX.

I am directed to transmit herewith a certified copy of **Final order No. 164/** **2010 EX[DB]** dated 05-4-10 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(Excise Appeal Branch)

Copy to :
1. Respondent
C.C.E BHOPAL
HOSHANGABAD ROAD, 48, ADMINISTRATIVE AREA, AREA HILLS, BHOPAL (M.P.) 462011
2. Adv. / Consult
MR.Z. U. ALVI
D-8,BDA COLONY, ADJACENT GARUDA TRAVELS. KOH-E-FIZA BHOPAL-01
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 Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9 Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10 M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)
11 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
12 Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
13 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
14 Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
15 LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
16 Office Copy
17 Guard file
18. HON'BLE PRESIDENT.

Assistant Registrar
(Excise Appeal Branch)

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

Date of hearing/decision: 05.04.2010

For approval and signature:

Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri M. Veeraiyan, Member (Technical)

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?	No
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

Excise Stay No. 1641 of 2009 with Excise Appeal No. 1596 of 2009

[Arising out of Order-in- Original No.08/COMMR/CEX/2009 dated 31.3.2009 passed by the Commissioner of Central Excise, Bhopal].

M/s Bharat Heavy Electricals Limited ...appellants

Vs.

CCE, Bhopal ...Respondent

Appearance: Rep. by Sh. Z.U. Alvi, Advocate for the appellants.
Rep. by Sh. R.K. Verma, DR for the respondent.

Coram: Hon'ble Sh. Justice R.M.S. Khandeparkar, President
Hon'ble Sh. M. Veeraiyan, Member (Technical)

FINAL Oral order No. 164/2010 EX
STAY ORDER NO. 258/2010 EX
Per: Shri Justice R.M.S. Khandeparkar:

Heard the learned Advocate for the appellants and learned DR for the respondent.

2. The order by the committee on disputes dated 01.12.2009 in view of their meeting held on 05.11.2009 reads thus:-

> "The Committee observed that there was no dispute that refund of excess excise duty paid by BHEL was due to it. The objection of the department was that the procedure adopted by the company for taking suo moto credit was not permissible under the law. The Committee was of the view that further litigation on this issue was not desirable. The Excise authorities should sanction the genuine refund claim in this case. It, therefore, directed CBEC to urgently issue suitable instructions to Chief Commissioner of Central excise to ensure that the assessee gets back the refund claim within two months of the receipt of instructions from CBEC. The Committee, therefore, declined permission to BHEL to pursue the appeal before CESTAT".

3. In view of what has been stated in the committee's decision, it appears that the permission to pursue the appeal has been declined to the appellants. It also discloses direction to the Department to consider the refund claim of the appellants in accordance with provisions of law. In the circumstances, therefore, there is no question of entertaining this appeal and/ or stay application. Consequently, the same are disposed of.

[Justice R.M.S. Khandeparkar]
President

[M. Veeraiyan]
Member [Technical]

/Pant/