

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/722 /2005-723 /2005 - EX[DB]

Date 07/05/2010

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

To :
C.C.E.LUDHIANA
F-BLOCK RISHI NAGAR LUDHIANA PUNJAB
C.C.E.LUDHIANA

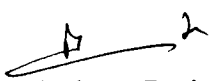
M/S NICKS INDIA TOOLS

Appellant

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 245-246/
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

2010 EX[DB] dated 30-4-10


Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

M/S NICKS INDIA TOOLS

E-162-163, FOCAL POINT LUDHIANA PUNJAB

2. Adv. / Consult

MR.G.S.BHANGOO

H.NO. 5, SECTOR-10A, CHANDIGARH.

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 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

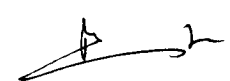
12 LAWCRUX Advisors Pvt Ltd, LAW House, 1-8, Sector - 10, Faridabad 121003 (Harvana)

13 Office Copy

14 Guard file

15. M/S KAY JAY FORGINGS PVT.LTD.

C-3, FOCAL POINT LUDHIANA


Assistant Registrar
(Excise Appeal Branch)

16. 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
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal Nos.722-723/05

(Arising out of order in appeal No.633-634/CE/AppI/Ldh/04 dated 30.11.04 passed by the Commissioner of Central Excise(Appeals), Ludhiana)

CCE, Ludhiana

Applicant

Vs

M/s Nicks India Tools
M/s Kay Kay Forgings (P) Ltd

Respondent

Appeared for Appellant : Shri B.L. Soni, DR
Appeared for Respondent : Shri Vikrant Kakaria, Advocate

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

Date of Hearing: 23.4.2010

Final Order No. 245-246 /2010-Ed

Per Dr. C. Satapathy:

Heard both sides.

2. We find that the lower Appellate Authority has given a finding that the relied upon documents were not made available to the respondent. After giving such a finding, it was incumbent upon the lower Appellate Authority to set aside the impugned orders and remand the matter for fresh decision after following the principles of natural justice. Instead he has allowed the appeals leading to the present appeals filed by the Department.

3. Both sides state that in a similar case arising from the same investigation, the Tribunal had remanded the matter to the Original Authority for fresh decision following the principles of natural justice ^{vide} Final Order No.1266/2009 dated 11.11.2009 in Appeal No. E/6068/2004. Following the ratio of the said decision,

we set aside the impugned order and allow both the appeals by way of remand for fresh decision by the Original Authority after following the principles of natural justice and after granting opportunity of hearing to the respondent. Both the appeals are allowed by way of remand.

(Order dictated and pronounced in the open Court).

(Dr. Chittaranjan Satapathy)
Technical Member

(D.N. Panda)
Judicial Member

MPS*