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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

Date 19/09/2011

Appeal No. C/777 /2007 – SM[BR]

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

To :
C.C. (PREVENTIVE) AMRITSAR
CUSTOM HOUSE, CENTRAL REVENUE BUILDING,
THE MALL, AMRITSAR 143001.

C.C. (PREVENTIVE) AMRITSAR — Appellant

Vs

M/S L.R.ALLOYS LTD. — Respondent

I am directed to transmit herewith a certified copy of **Final order No. 608 / 2011-SM[BR]** dated 30.8.2011 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 L.R.ALLOYS LTD.
G.T.ROAD, SIRHIND SIDE, MANDI
GOBINDGARH, PUNJAB

2. Adv. / Consult
NONE:----------------

3. C.D.R
4. Bar association. CESTAT. New Delhi
5. Director Publications. Customs. Excise. I.P. Estate. New Delhi -
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. Taxmann Allied Service Pvt Ltd.. 59/32. New Rohtak Road. New Delhi -
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Harvana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No. 2, R.K. Puram, NEW DELHI

COURT No. II

Excise Appeal No.777 of 2007 (SM)

[Arising out of Order-In-Appeal No.91/Cus/Appl/Ldh/07, dated 27.07.07 issued by CCE, Chandigarh.]

Date of Hearing / Decision : 30.08.2011.

For approval and signature:
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?	
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3	Whether Their Lordships wish to see the fair copy of the Order?	
4	Whether Order is to be circulated to the Departmental authorities?	

CC(Prev.), Amritsar — Appellant
Versus
LR Alloys Ltd. — Respondent

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

Present for the Appellant - Shri Fateh Singh, DR
Present for Respondent - None

Final **Order No.** 608/2011 SM (BR) **Dated :**

Per D.N. Panda:

None present for the respondent.

2. Ld. DR states that when fraudulent/forged DEPB scrips were used as medium to discharge duty on imports by the user, Revenue was defrauded. Fraud, nullifies every solemn act.

Section 17 of Limitation Act states that fraud nullifies everything. So also he submits that forged and fake scrips have no good title for use. He relies on the judgement of Apex Court reported in the case of Friends Trading Co. vs. Union of India – 2010(258)ELTA72(SC) arose out of the judgement of Hon'ble Punjab & Haryana High Court reported in 2010(254)ELT652(P&H). So also he relies on the decision of Hon'ble High Court of Kolkata in the case of ICI India Ltd. vs. CC(Port), Kolkata, reported in 2005(184)ELT339(Cal.).

3. Heard Revenue.

4. Perusal of record shows that the appellate authority himself observed that the respondent was beneficiary of fraudulently obtained DEPB scrips which were later on cancelled by DGFT. Since possession follows title, no better title is conferred on the user if the transferor had no title. It may also be stated that there cannot be perpetuity of fraud in the eyes of law for which ld. DR relies on the judgments cited which has force. Accordingly, Revenue's appeal is allowed.

(Dictated and pronounced in the Open Court)

(D.N.Panda)
Judicial Member

RK-I