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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066

CUSTOMS APPEAL BRANCH

Appeal No. C/75 /2010 - CU[DB], C/S/457/2010 Date **05/04/2011**

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

To :
M/S OM INTERNATIONAL
SHOP NO. 2, 619/20, MALABAR HOUSE, KATRA
ISHWAR BHAWAN, KHARI BAOLI, DELHI-110006

M/S OM INTERNATIONAL Appellant

Vs

C.C. (PREVENTIVE) AMRITSAR **STAY ORDER NO.C/148/2011-CU DB** Respondent

I am directed to transmit herewith a certified copy of **Final order No. C/145/ 2011 CU[DB]** dated 18.03.2011 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
C.C. (PREVENTIVE) AMRITSAR
CUSTOM HOUSE, CENTRAL
REVENUE BUILDING, THE MALL,
AMRITSAR 143001.

2. Adv. / Consult
MR.H.S.MEW
52 B, UPKAR APPTS, MAYUR VIHAR
PHASE EXTN, DELHI-91

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. M/s. Deeparchie Publications. M-93. Marg. 46. Saket. New Delhi 110017
9. Taxmann Allied Service Pvt Ltd.. 59/32. New Rohtak Road. New Delhi - 110005
10. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
11. LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Haryana)
12. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
13. Office Copy
14. Guard file

Assistant Registrar
(Customs Appeal Branch)

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

C/Stay/457/10 in Appeal No:C/75/10

(Arising out of Order-in-Original No.110-111/Cus/Ldh/09 dt.20.10.09 passed by the CC(A), New Chandigarh)

For approval and signature:

Hon'ble Mr. S.S.Kang, Vice President
Hon'ble Mr.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?	
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?	

M/s.Om International — Appellants

Vs.

CC, Amritsar — Respondent

Present for the Appellant: Shri H.S.Mew, Advocate
Present for the Respondent: Shri Fateh Singh, SDR

Coram: Hon'ble Mr. S.S.Kang, Vice President
Hon'ble Mr.M.Veeraiyan, Member (Technical)

Date of Hearing: 18.03.2011
Stay order No.C/148/11 **Date of decision: 18.03.2011**

Final **ORDER NO.** C/145/11

PER: S.S.KANG

Heard both sides.

2. The applicant filed the application for waive of pre-deposit refund of the amount which is disallowed by the Commissioner (Appeals) in the appeal filed by the Revenue.

3. The contention of the applicant is that they received the notice of hearing on 13.8.09 which is in respect of appeal filed by the Revenue against OIO No.R-12/RC/AC/09 dt.04.02.09 and the applicant appeared in pursuance of this notice before the Commissioner (Appeals). No notice has been received by the applicant in respect of OIO No. R-576/RC/AC/09 dt.13.01.09 which is set aside in the impugned order.

4. The applicant also submitted that in respect of appeal No.98/09 which is in respect OIO No. R-576/RC/AC/09 dt.13.01.09. The applicant was heard and the applicant also filed the appeal before this Tribunal. In the circumstances, on the last date of hearing the Revenue was directed to produce the file of the Commissioner (Appeals). We have perused the file produced by the Revenue. We find that the Revenue is admitting the fact that the notice had been issued in respect of appeal relating to adjudication order dt.4.2.09 whereas the impugned is passed in respect of adjudication order dt.13.1.09. In these circumstances, the matter requires to be reconsidered by the Commissioner (Appeals) in respect of appeal filed against the OIO No. R-576/RC/AC/09 dt.13.01.09. The impugned order in respect of this adjudication order is set aside after waiving pre-deposit of the amount in dispute and the matter is remanded to the Commissioner (Appeals) to decide the appeal afresh after affording opportunity of hearing to both sides. The appeal is disposed of by way of remand.

(Pronounced in the open court)

(S.S.KANG)
VICE PRESIDENT

(M.VEERAIYAN)
MEMEBR (TECHNICAL)

mk