

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

Appeal No. C/323 /2007 - CU[DB]

Date 19/01/2011

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

To :
M/S KRISHNA EXPORT
G-1052,DSIDC NARELA, DELHI-110040
M/S KRISHNA EXPORT

Appellant

Vs
Respondent

C.C.E. DELHI I

I am directed to transmit herewith a certified copy of **Final order** C/38/ 2011 CU[DB] dated 19.01.2011
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.E. DELHI I
C.R. BUILDING, I.P. ESTATE, NEW
DELHI 110002
2. Adv. / Consult **MR.MOHAN LAL**
B-67,FLATTED FACTORIES
COMPLEX,OKHLA PHASE-III,
NEW DELHI - 110 020.
3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise, I.P. Estate, New
6. M/s Centax Publications 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 -
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 (Harvana)
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)

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi**

COURT NO. IV

DATE OF HEARING : 12/01/2011.

DATE OF DECISION : 12/01/2011.

Customs Appeal No. 323 of 2007

[Arising out of the Order-in-Appeal No. 16/CE/DLH/2007 dated 09/03/2007 passed by The Commissioner (Appeals), Central Excise, New Delhi.]

For Approval and signature :

Hon'ble Ms. Archana Wadhwa, Member (Judicial)

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? | : | No |
| 2. | Whether it would 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 Department Authorities? | : | Yes |

M/s Krishna Export

Appellants

Versus

CCE, New Delhi

Respondent

Appearance

None – for the Appellants.

Shri B.L. Soni, Authorized Representative (DR) – for the Respondent.

CORAM : **Hon'ble Ms. Archana Wadhwa, Member (Judicial)**
Hon'ble Shri M. Veeraiyan, Member (Technical)

Final Order No. C/38/4 Dated : 19-1-11

Per. Archana Wadhwa :-

After rejecting the request of adjournment we proceed to decide the appeal itself in as much as we are of the view that Commissioner (Appeals)'s order is required to be set aside and matter to be remanded to him for decision on merits, as he has not decided the issue on merits.

2. The Commissioner (Appeals) has rejected the appeal on the sole on short ground that the appeal memo filed by the appellant is in the format meant for excise appeal whereas the duty of customs stand conformed by the lower authorities. As such, he has held that the same is not maintainable.

3. We are of the view that the mistake pointed out by the Commissioner (Appeals) is of a technical nature and is rectifiable mistake. Instead of directing the appellants to remove the said defects, he has chosen to dismiss the appeal, for the reasons best known to him.

4. We accordingly set aside the impugned order and remand the matter to Commissioner of Customs (Appeals) for fresh decision on merits.

(Dictated and pronounced in open court.)

(Archana Wadhwa)
Member (Judicial)

(M. Veeraiyan)
Member (Technical)

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