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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/51 /2010 - CU[DB] Date **20/07/2011**

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

To :
M/S MODIPON LTD.,
MODI NAGAR, GHAZIABAD (U.P.)

M/S MODIPON LTD., Appellant

Vs

C.C. (ICD) NEW DELHI Respondent

I am directed to transmit herewith a certified copy of **Final order No.C/318/ 2011 CU[DB]** dated 13.07.2011 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. (ICD) NEW DELHI
ICD, TUGHLAKABAD, NEW
DELHI 110020.

2. Adv. / Consult MR. BIPIN GARG,
B-1/1289-A, VASANT KUNJ,
NEW DELHI – 110 070.

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 - 110005
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 Copv
13. Guard file

Assistant Registrar
(Customs Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Court No.III

C/Appeal No.51/2010

(Arising out of order in original No.79/2009 dated 4.11.09 passed by the Commissioner of Customs, New Delhi)

Date of Hearing: 13.7.2011

For Approval and signature:

Hon'ble Mr S.S. Kang, Vice President
Hon'ble Mr.Mathew John, Technical Member

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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 would be released under Rule 27 of the CESTAT (Procedure) rules, 1982 for publication in any authoritative report or not? Yes

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

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M/s Modipon Ltd — Appellants

Vs

CC,TKD New Delhi — Respondent

Appeared for the Appellant : Ms. Sukriti Das, Advocate
Appeared for the Respondent: Shri Sheo Narayan Singh , DR

Coram: **Hon'ble Shri S.S. Kang, Vice President**
Hon'ble Shri Mathew John, Member (Technical)

Final ORDER No. C/318/11

Per S.S. Kang:

Heard both sides.

2. The appellants field this appeal against the impugned order whereby the Commissioner of Customs declined the request of the appellant for conversion of advance license shipping bills to DEPB Scheme.

3. The appellants made export of goods during January 2007 to April, 2011 and under the Advance License Scheme, and obtained advance license issued against the exports ~~made by~~ from the DGFT. Thereafter the appellants asked for cancellation of advance license and their request~~ed~~ was accepted. Subsequently the appellants approached the customs authorities for conversation of shipping bills to DEPB Scheme which is declined vide the impugned order.

4. The contention of the appellant is that as their factory was closed, ~~therefore~~, the advance license obtained by them against the export made ~~got cancelled~~ could not be utilised and appellants ~~are entitled for~~ went to claim benefit under the DEPB Scheme. The appellants relied upon the Board Circular dated 6.1.2004 whereby such conversion is admissible. The contention of appellant is that the impugned order is not sustainable.

5. The Revenue also relied upon the Board Circular dated 6.1.2004 to contend that the request for conversion of advance licensing shipping bills to DEPB Scheme has to be made within one month from the date of export. In the present case, the request was made after four months. Therefore, the request was rightly declined.

6. We find that the appellants made export and they also got advance license against the export made which was subsequently

cancelled by the DGFT at the request of the appellant. It is not the case of the appellant that no export benefit was allowed. The Appellant made request for conversion to DEPB Scheme, that too beyond the period prescribed under the Board Circular. For DEPB Scheme, the exporter has to declare the standard input output norms and it has to be verified by the customs authorities. In the present case, this was not done. Hence, we find no infirmity in the impugned order and the appeal is rejected.

(S.S. KANG)
Vice President

(MATHEW JOHN)
Technical Member

MPS*