TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

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

CUSTOMS APPEAL BRANCH

Appeal No. C/S/2182/2011 IN C/370 /2011, C/S/2246/11 IN C/391/2011, C/S/2247/11 IN C/392/2011, C/S/2249/2011 IN C/394/2011, C/S/2250/2011 IN C/395/2011, C/S/2251/2011 IN C/396/2011- CU[DB] Date **19/12/2011**

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

To :
C.C. ICD, TUGHLAKABAD,
NEW DELHI 110020.

C.C. (ICD) NEW DELHI Appellant

Vs

WINGS INFOTECH, **STAY ORDER NO.C/429-434/2011** Respondent

I am directed to transmit herewith a certified copy of **Final order No.C/512-517/ 2011 CU[DB]** dated 13.12.2011 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
WINGS INFOTECH,
BT-1/94/MANGOLPURI,
INDUSTRIAL AREA, PHASE-I,
NEW DELHI.

2. Adv. / Consult MR. PREM RANJAN KUMAR,
LGF 6/33, VIKRAM VIHAR,
LAJPAT NAGAR-IV,
NEW DELHI – 110 024.

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 (Haryana)
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
(Customs Appeal Branch)

Please see rest of the addresses at back.

P.T.O.

BRIJ & CO.,
367/3, KATRA HUSSAIN BUX,
KHARI BAOLI, DELHI. 110006

D.D.M. GRAPHIC.,
294, GROUND FLOOR,
FIE, PATPARGANJ INDUSTRIAL AREA,
NEW DELHI-110092

SURYA ROSHNI LIMITED,
PADMA TOWER-I, RAJENDRA PLACE,
NEW DELHI. 110008

RISING STAR EXIM PVT. LTD.
S-2/C-77, SHYAM APARTMENT,
SAROJANI MARG, C-SCHEME,
JAIPUR. 302001

MET TRADE INDIA LTD.
138, MAIN ROAD, GHAZIPUR,
NEW DELHI. 110096.

MR. R.S. SHARMA,
C-9/9656, VASANT KUNJ,
NEW DELHI – 110 070.

MR. G.K. CHAND,
D-727, G.F., CHITRANJAN PARK,
NEW DELHI – 110 019.

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing:05.12.2011
Date of decision:05.12.2011

(1) Customs Stay Application No.2182 of 2011 in
Customs Appeal No.370 of 2011

CC, ICD, New Delhi ...Appellant

Vs.

M/s. Wings Infotech ....Respondent

[Arising out of Order-in-Appeal No.CC(A)CUs./ICD/127/11 dated 28.03.2011 passed by the Commissioner of Customs (Appeals), New Delhi].

(2) Customs Stay Application No.2246 of 2011 in
Customs Appeal No.391 of 2011

CC (ICD), New Delhi Appellant

Vs.

M/s. Brij &Co. Respondent

(Arising out of Order-in-Appeal No.CC(A)Cus./ICD/168/11 dated 31.03.2011 passed by the Commissioner of Customs (Appeals), New Delhi)

(3) Customs Stay Application No.2247 of 2011
In Appeal No.392 of 2011

(Arising out of Order-in-Appeal No.CC(A)Cus,/ICD/130/11 dated 28.03.11 of the Commissioner of Customs (Appeals), New Delhi).

CC (ICD), New Delhi ..... Appellant

Vs.

M/s. DDM Graphic ..... Respondent

(4) Customs Stay Application No.2249 of 2011
In Appeal No.394 of 2011

(Arising out of Order-in-Appeal No.CC(A)Cus./ICD/128/11 dated 28.03.2011 of the Commissioner of Customs (Appeals), New Delhi).

CC (ICD), New Delhi .....Appellant

Vs.

M/s.Surya Roshni Limited .....Respondent

(5) Customs Stay Application No.2250 of 2011
In Appeal No.395 of 2011

(Arising out of Order-in-Appeal No.CC(A)Cus./ICD/124/11 dated 28.03.2011 of the Commissioner of Customs (Appeals), New Delhi)

CC (ICD), New Delhi ....Appellant

Vs.

M/s.Rixing Star Exim Pvt. Ltd. ...Respondent

(6) Customs Stay No.2251 of 2011
In Appeal No.396 of 2011

(Arising out of Order-in-Appeal No.CC(A)Cus./ICD/129/11 dated 28.03.2011 of the Commissioner of Customs (Appeals), New Delhi)

CC (ICD), New Delhi ...Appellant

Vs.

M/s. Met Trade India Limited ...Respondent

For approval and signature:

Hon'ble Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Rakesh Kumar, Member (Technical)

1. Whether Press Reporters may be allowed to see CESTAT (Procedure) Rules, 1982.	No
2. Whether it should 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 Departmental authorities?	Yes

Appearance: for the Department:

Rep. by Shri R.K. Verma, DR in case Wings Infotech,
Rep. by Shri Amresh Jain, DR in case of Brij & Co. & M/s.DDM Graphics
Rep. by Shri R.K. Veram, DR in case of Surya Roshini Ltd.
Rep. by Shri K.K. Jaiswal, DR in case of Rixing Star Pvt.Ltd. & in case of M/s. Met Trade India Limited.

For the Respondent:

Rep. by none for the respondent in M/s.Wings Infotech, in M/s. DDM Graphic & in Met Trade India
Rep. by Prem Ranjan, Advocate in M/s.Brij & Co.
Rep. by Shri R.S. Sharma in case of M/s. Surya Roshni Ltd.
Rep. by Shri G.K. Chand, Rep. in case of M/s. Rixing Star

CORAM: Hon'ble Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Rakesh Kumar, Member (Technical)

Final Order No.C/SKS/57/11/Dated:05.12.2011
Stay order No.C/429-434/11

Per Archana Wadhwa:

After rejecting the stay petitions filed by the Revenue, we proceed to decide the appeals itself, inasmuch as the Commissioner (Appeals) has remanded the matter to the lower authorities on the ground that the respondent had submitted all the requisite documents at the time of filing of the refund claim in terms of Notification No.102/2007-Cus dated 14.09.2007, for refund of Special Additional Duties. He has also observed that the adjudicating authority has not issued any show cause notices or has not given any opportunity to the respondent to be heard by him. He has held that as the entire case is dependent upon the relevance of the requisite documents, the assessee should be given an opportunity to put-forth his case. Revenue's only grievance against the order of the Commissioner is that he was not having any powers to remand the matter.

2. Without going to the above legal issue, we find that admittedly the impugned orders were passed by the original adjudicating authority in violation of the principals of natural justice. Inasmuch as, the relevant documents are required to be verified and scrutinized, which can only be done at the level of the original adjudicating authority, we deem it fit to

remand the matters to the original adjudicating authority. We order accordingly. Revenue's appeals are disposed of in the above terms.

[order dictated & pronounced in open court]

(Archana Wadhwa)
Member (Judicial)

(Rakesh Kumar)
Member (Technical)

Ckp.