

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

Appeal No. E/46 /2011 - EX[DB] WITH E/COD/05/2011-EX

Date 05/07/2011

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

To :
C.C.E. GHAZIABAD

C.G. O. COMPLEX-II, KAMLA NEHRU NAGAR,
GHAZIABAD 201302
C.C.E. GHAZIABAD

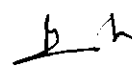
Appellant

Vs

Respondent

M/S INTERNATIONAL TOBACCO CO. LTD. MISC ORDER NO. 375/2011-EX

I am directed to transmit herewith a certified copy of Final order No.503/ 2011 EX[DB] dated 01-7-11
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

M/S INTERNATIONAL TOBACCO CO. LTD.
MEERUT ROAD, GULDHAR,
GHAZIABAD (U.P.)

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 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. 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 Copy

13. Guard file

14. HON'BLE PRESIDENT.


Assistant Registrar
(Excise Appeal Branch)

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CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R. K. Puram, New Delhi.
Court No. 1

Date of hearing/decision: 01.07.2011

For approval and signature:

Hon'ble Shri Justice R.M.S. Khandeparkar, President
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 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?	NO

**Excise COD Application No. 05 of 2011 and
Excise Appeal No. 46 of 2011**

[Arising out of order –in –appeal No. 626-629/CE/D-II/2010 dated 01.11.2010 passed by the Commissioner of Central Excise, New Delhi]

CCE, Ghaziabad

Appellants

Vs.

M/s International Tobacco Co. Ltd.

Respondent

Appearance:

Rep. by Sh. N. Pathak, DR for the appellants.
None for the respondent.

**Coram: Hon'ble Sh. Justice R.M.S. Khandeparkar, President
Hon'ble Sh. M. Veeraiyan, Member (Technical)**

MISC oral order No. 375/2011 - EX
FINAL ORAL ORDER NO. 503/2011 - EX

Per: M. Veeraiyan:

Heard the DR.

2. The delay in filing the appeal is condoned and COD application disposed off.
3. The machinery was imported by M/s Godfrey Phillips India Ltd. and the bill of entry was duly endorsed to the recipient namely M/s International Tobacco Co. Ltd. and credit of CVD paid on the machinery has been taken by the later. The original authority denied the credit on the ground that the procedure prescribed in CBEC Circular No. 179/13/96-CX dated 29.02.1996 in so far as the same related to endorsement by the proper officer of Customs was not followed in respect of the bill of entry in favour of M/s International Tobacco Co. Ltd. On a specific query as to how the circular dated 29.02.96 issued under the Central Excise Rules, 1944 is applicable to the facts of the present case when the imports had taken place in 2008, there is no answer to said query available from the records. Further, we do not find any dispute about the duty paid nature of the capital goods and receipt of the same by the respondent and use of the same for the internal purpose. Under these circumstances, we do not find any merit in the appeal by the department.
4. Appeal is, therefore, rejected.

(Justice R.M.S. Khandeparkar)
President

(M. Veeraiyan)
Member (Technical)

Pant