

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

Appeal No. E/479 & 552 /2005 - EX[DB] E/M/338/2011-EX

Date 19/05/2011

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

To :
M/S AMRAPATI STRUCTURE PVT. LTD.
14/7 MILE STONE ,MATHURA ROAD, FARIDABAD
M/S AMRAPATI STRUCTURE PVT. LTD. FARIDABAD

Appellant
Vs
Respondent

C.C.E. DELHI IV

MISC ORDER NO.293/2011-EX

I am directed to transmit herewith a certified copy of Final order No.428-429/ 2011 EX[DB] dated 12-5-11
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944


Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
C.C.E. DELHI IV
NEW CGO COMPLEX, NH-IV,
FARIDABAD, HARYANA 121001.

2. Adv. / Consult *SH.L.P. ASTHANNA, ADV., C/E*
MR.K.K ANAND
A-5,BASEMENT,LAJPAT NAGAR-III NEW DELHI-24

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)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing/decision:12.5.2011

**Miscellaneous Application No.338 of 2011 in
Central Excise Appeal No.479 of 2005**

M/s Amrapali Structural Pvt. Ltd. ... Appellants

Vs.

C.C.E., Delhi Respondent

Appearance:

Shri L.P. Asthana with Ms. Neha Gulati, Advocates for the appellants
Shri B.K.Singh, Authorized Departmental Representative (Jt.CDR) for the Revenue

Coram: Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri M. Veeraiyan, Technical Member

MSi Oral Order No. 293/2011-Ed

Per Shri Justice R.M.S. Khandeparkar:

Heard. The application is allowed. The order dated 6.10.2005 passed
by the Commissioner (Appeals), New Delhi is taken on record. Application stands
disposed of.

(Justice R.M.S. Khandeparkar)
President

(M. Veeraiyan)
Technical Member

scd/

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing/decision: 12.5.2011

For Approval and Signature:

Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri Rakesh Kumar, Technical Member

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 26 of the CESTAT (Procedure) Rules, 1982?	Yes
2	Whether it should be released under Rule 26 of 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

Central Excise Appeal No.479 of 2005

Arising out of the order in original No.36-37/RH/Adj/2004 dated 8.10.2004 passed by the Commissioner of Central Excise, Delhi IV, Faridabad.

M/s Amrapali Structurals Pvt. Ltd. ... Appellants

Vs.

C.C.E., Delhi IV Respondent

Central Excise Appeal No.552 of 2005

Arising out of the order in original No.38/RH/Adj/2004 dated 8.10.2004 passed by the Commissioner of Central Excise, Delhi IV, Faridabad.

M/s Amrapali Structurals Pvt. Ltd. ... Appellants

Vs.

C.C.E., Delhi IV Respondent

Appearance:

Shri L.P. Asthana with Ms. Neha Gulati, Advocates for the appellants
Shri B.K.Singh, Authorized Departmental Representative (Jt.CDR) for the Revenue

Coram: Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri M. Veeraiyan, Technical Member

Final Oral Order No. 428-429/2011-Ex'

Per Shri Justice R.M.S. Khandeparkar:

Having heard the learned Advocate for the appellants and the Joint CDR for the respondent for a considerable time, it is revealed that the relief which the appellants are seeking in these proceedings have been already made available to the appellants by the Commissioner (Appeals), New Delhi in its order dated 6.10.2005. Under the said order, the Commissioner (Appeals) has already held that the product in question to be excisable and the appellants are entitled for SSI benefit. This being the main relief sought for in the present appeals, and those reliefs having already made available to the appellants in the contemporaneous proceedings which culminated in the order by the Commissioner (Appeals) on 6.10.2005, the present proceedings cannot survive. Needless to say that in view of the said order of the Commissioner (Appeals), the question of recovery of the amount in terms of the impugned orders from the appellants does not arise. The recovery, if any, will have to be in terms of the order passed by the Commissioner (Appeals), New Delhi under order dated 6.10.2005. Being so, both the appeals are liable to be disposed of as infructuous while observing that in case of any Departmental appeal against the order dated 6.10.2005 passed by the Commissioner (Appeals), New Delhi, the appellants herein would be entitled to raise all the points which are sought to be raised in the present appeals. Needless to say that recovery, if any, shall be in terms of the order dated 6.10.2005 and shall be subject to the appeal, if any, against the said order by the Department.

2. With the above observations, both the appeals are disposed of in above terms.

(Justice R.M.S. Khandeparkar)
President

(M. Veeraiyan)
Technical Member

scd/