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

Appeal No. E/3921/2005 - EX[DB]   Date **29/08/2011**

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

To :
M/S AQUAMALL WATER SOLUTION LTD
143,C-4, BOMMASANDRA INDO AREA, ANEKAL
TALUK, BANGALORE.
562158

M/S AQUAMALL WATER SOLUTION LTD Appellant

Vs

C.C.E. MEERUT I Respondent

I am directed to transmit herewith a certified copy of **Final order No.**787/ **2011 EX[DB]** dated 17-8-11 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. MEERUT I
EXCISE CHOWK, UNIVERSITY
ROAD, MANGAL PANDEY
NAGAR, MEERUT - 250005.

2. Adv. / Consult
MR.V. LAXMIKUMARAN
B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029

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
(Excise Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

COURT-I

Date of hearing/decision:16.8.2011

Central Excise Appeal No.3921 of 2005

[Arising out of order in original No.7-8/Comm/M-II/2005 dated 8.7.2005 passed by the Commissioner of Central Excise, Meerut.

For Approval and Signature:

Hon'ble Ms. Jyoti Balasundaram, Vice 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?	No
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

M/s Aquamall Water Solutions Ltd. .. Appellants

Vs.

C.C.E. , Meerut I ... Respondent

Appearance:

Shri B.L. Narasimhan, Advocate for the appellants
Shri R.K. Verma, Authorized Departmental Representative(DR) for the Revenue

Coram: Hon'ble Ms. Jyoti Balasundaram, Vice President
Hon'ble Mr. Rakesh Kumar, Technical Member

FINAL Oral Order No. 787/2011-EX

Per Ms. Jyoti Balasundaram:

The demand of Rs.3,15,44,454/- confirmed by the Commissioner, Central Excise is challenged by the assessee - the demand stands confirmed as a result of adopting the price at which the related persons ~~to~~ of the assessees sold the goods further in the open market.

2. We have heard both sides. We find that in this case, there is no dispute that the goods were being sold both to the related persons as well as independent buyers. In such situation, the decision of the Tribunal in the assessee's own case as reported in 2005 (182) ELT 196 holding that as per Rule 4, the value of clearance~~s~~ is to be determined by adopting the price at which the same goods were sold to independent buyers, is applicable on all fours to the facts of the present case [decision of the Tribunal has been upheld by the Apex Court as seen from 2006 (193) ELT A 197 (SC)]. The same view has been expressed by the Tribunal in the case of M/s Prakash Industries Ltd. vs. C.C.E., Raipur as reported in 2010 (180) ECR 0041. Following the ratio of the Apex Court cited supra, we hold valuation is to be done ~~to show~~ by adopting the price at which the assessees sold the goods to independent (unrelated) buyers. Although the learned Counsel for the assessees submits that duty has been discharged on such price, this fact requires verification, for this purpose, we remit the case for re-quantifying the duty payable by the assessees (according to the assessee, the demand would get reduced to about Rs.1.50 crores). Fresh orders shall be passed by re-working of the demand after hearing the assessees.

3. The appeal is thus, disposed of by remand in above terms.

(Jyoti Balasundaram)
Vice President

(Rakesh Kumar)
Technical Member

scd/