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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/3327/2010-3328/2010 - EX[DB]
WITH E/S/3100-3101/2010-EX

Date **03/01/2012**

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

To :
M/S ALLIANCE ELECTRICALS (P) LTD.,
NE-93-H, GALI N0. 3, VISHNU GARDEN, NEW DELHI.

M/S ALLIANCE ELECTRICALS (P) LTD., Appellant

Vs

C.C.E. DELHI II **STAY ORDER NO. 1684-1685/2011-EX** Respondent

I am directed to transmit herewith a certified copy of **Final order No.1061-1062/ 2011 EX|DB|** dated 27-12-11 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 II
C.R. BUILDING, I.P. ESTATE, NEW DELHI 110002

2. Adv. / Consult
MR.PRAVEEN SHARMA
KF-84, KAVI NAGAR, GHAZIABAD

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
14. SH. J.K. BANSAL, DIRCTOR,
M/S ALLIANCE ELECTRICALS (P) LTD.,
NE-93-H, GALI N0. 3, VISHNU GARDEN,
NEW DELHI.

Assistant Registrar
(Excise Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066

COURT NO. II

E/Stay/3100-3101 of 2010 in &
Central Excise appeal No. 3327-3328/2010

[Arising out of Order-in-Appeal No. 383-384/CE/D-II/10 dated 4.8.2010 passed by the Commissioner (Appeals), Delhi-II, Central Excise, New Delhi].

Date of Hearing/decision: 16th December, 2011

For approval and signature:

Hon'ble Shri D.N. Panda, Judicial Member
Hon'be Shri Mathew John, Technical Member

1	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3	Whether Their Lordships wish to see the fair copy of the Order?	
4	Whether Order is to be circulated to the Departmental authorities?	

M/s. Alliance Electricals (P) Ltd.,
Shri J.K. Bansal, Director — Appellant

Vs.

CCE, Delhi — Respondent

Present for the Appellant : Shri Praveen Sharma, Adv.
Present for the Respondent : Shri N. Pathak, D.R.

Coram: Hon'ble Shri D.N. Panda, Judicial Member
Hon'ble Shri Mathew John, Technical Member

STAY ORDER NO 1684-1685/2011-EX
FINAL ORDER NO. 1061-1062/2011-EX

Per D.N. Panda:

Learned Counsel submits that on the presumption that the goods are notified under Section 4A of Central Excise Act, 1944 that shall be branded goods, Revenue proceeded to deny SSI Exemption to the appellant. It is also submitted that show cause notice nowhere stated about any indication of trade mark or brand name over the goods. It is a fact that the appellant was a job worker for "Inalsa" and the goods were manufactured for supply to that concern. When the goods were not being branded one as is apparent from page 55 of appeal folder (purchase order dated 28.11.2001) the appellant is not liable to be denied SSI Exemption. The purchase order clearly says that it was obligatory on the part of the appellant to manufacture unbranded goods. Therefore, not only pre-deposit may be waived but also appeal may be decided.

2. Learned D.R. submits that when the goods are notified under Section 4A of Central Excise Act, 1944, repacking of the goods at the employer's end is not permitted. Therefore, goods cleared from the factory when repacked were branded goods only and SSI exemption is deniable.

3. Heard both sides and perused the record.

4. For the precise issue arising in the appeal as above, we do not propose to keep this appeal pending in the Tribunal merely disposing stay petition. Therefore, dispensing with

requirement of pre-deposit appeal is decided by this common order.

5. When no evidence came before us to appreciate that the appellant manufactured branded goods and nothing was rebutted by Revenue against page 55 of appeal folder relied by Appellant which is work order, in absence of cogent evidence to the contrary we are of the opinion that adjudication is unsustainable. Accordingly we allow the appeal.

6. In the result, both stay application and appeal are disposed.

7. Since main appeal is disposed in above manner, appeal No. E/3328/2010 is also allowed annulling the penalty. In this case also stay application gets disposed.

(Dictated & pronounced in the Open Court.)

(D.N. PANDA)
JUDICIAL MEMBER

(MATHEW JOHN)
TECHNCIAL MEMBER

RK