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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/1450/2005 - EX[DB] Date **13/03/2012**

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

To :
M/S PRIYADARSHNI CONDUCTORS PVT. LTD.
C-159, M.I.A., ALWAR, RAJASTHAN

M/S PRIYADARSHNI CONDUCTORS PVT. LTD. Appellant

Vs

C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No. A/261/ 2012 EX[DB]** dated 07-3-12 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. JAIPUR I
N.C.R.BUILDING, STATUE
CIRCLE, "C" SCHEME, JAIPUR
302005.

2. Adv. / Consult
MR.KANISHK GUPTA
28, ALAKPURI, ALWAR, RAJASTHAN, 301001

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-3
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.II, R.K. PURAM, NEW DELHI-110066.

DIVISION BENCH
Court No.3

Excise Appeal No.E/1450/2005

(Arising out of OIA No.10 (MPM) CE/JPR-I/2005 dt.13.1.05 passed by the CCE(A), Jaipur)

Date of Hearing/Decision: 01.03.2012

For approval and signature:

Hon'ble Mrs.Archana Wadhwa, Member (Judicial)
Hon'ble Mr.Mathew John, 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?	Yes

M/s.Priyadarshini Conductors (P) Ltd. Appellant

Vs

CCE, Jaipur Respondent

Present for the Appellant: Shri Kanishk Gupta, Advocate
Present for the Respondent: Shri S.R.Meena, AR

Coram: Hon'ble Mrs.Archana Wadhwa, Member (Judicial)
Hon'ble Mr.Mathew John, Member (Technical)

FINAL **ORDER NO.** A/261/2012-EX(BR)

PER: ARCHANA WADHWA

The demand of duty of Rs.35,069/- stands confirmed against the appellant for the period April, 2000 to January, 2004 on the ground that excess freight recovered by them from their customers is liable to be included in the assessable value of the products.

2. We find that the appellant was charging equalized freight from their customers and such freight was ~~beign~~ being shown in their excise invoices. There is no evidence on record to show that a part of cost is being diverted to the freight element and is being collected under the guise of transportation charges. The issue stands covered by the Hon'ble Supreme Court's judgement in the case of Baroda Electric Meters Ltd. vs. CCE-1997 SCC 697. It stands held by the Hon'ble Supreme Court that the equalized freight charged from their customers, even though in excess of the freight actually paid, cannot be held as part of the assessable value. By following the above decision, we set aside the impugned order and allow appeal with consequential relief to the appellant.

(Pronounced in the open court)

(ARCHANA WADHWA)
MEMBER (JUDICIAL)

(MATHEW JOHN)
MEMBER (TECHNICAL)

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