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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**

**STAY Application No. :** E/Stay/824/2012, E/Stay/825/2012
**Appeal No. :** E/684/2012-EX[DB], E/685/2012-EX[DB]

Dated: **09/10/2012**

**Assistant Registrar**
C.E.S.T.A.T. New Delhi
To,
**PRINTO INDIA GRAPHICS PVT LTD**
A-204, Sector-4A, Tronica City, Loni,
Ghaziabad(UP)

**PRINTO INDIA GRAPHICS PVT LTD** (Appellant)

**VS**

**C.C.E. GHAZIABAD** (Respondent)

I am directed to transmit herewith a certified copy of Final Order No. **A/1211-1212/2012-EX[DB]** , Stay Order No. **SO/1685-1686/2012** dated **21/09/2012** passed by the Tribunal under section **35-C(1) of the Central Excise and Salt Act, 1944.**

**Assistant Registrar**
**EXCISE Appeal Branch**

**Copy To,**
**1. Respondent**
**C.C.E. GHAZIABAD**
C.G. O. Complex-II, Kamla Nehru Nagar,
Ghaziabad 201302

**2. Advocate(s) / Consultant(s):**
VIJAI KUMAR (ADVOCATE)
C-2/2329, VASANT KUNJ,
NEW DELHI,
DELHI
110070

**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-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. Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Ameer Pet, Hyderabad – 500038

13. Office Copy

14. Gaurd File

**Assistant Registrar**
**EXCISE Appeal Branch**

15, **SUDHIR SURI,DIRECTOR**
M/s Printo India Graphics Pvt Ltd, A-204,
Sector-A4,Tronica City, Loni,
Ghaziabad(UP)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing/Decision:21.09.2012.

[Arising out of common order-in-original no.04/COMMR./GZB/2011 dated 21.12.2011 passed by the Commissioner of Customs, Ghaziabad].

Excise Stay Application No.824 of 2012 in
Excise Appeal No.684 of 2012

M/s. Printo India Graphics Pvt. Ltd. — Appellants

Vs.

CCE, Ghaziabad — Respondent

Excise Stay Application No.825 of 2012 in
Excise Appeal No.E/685 of 2012

Shri Sudhir Suri, Director
of M/s. Printo India Graphics Pvt. Ltd. — Appellants

Vs.

CCE, Ghaziabad — Respondent

For approval and signature:

Hon'ble Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Rakesh Kumar, Member (Technical)

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1. Whether Press Reporters may be allowed to see 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?

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Appearance: Rep.by Shri Vijay Kumar, Advocate for the appellants.
Rep. by Ms. Ranjana Jha, Joint CDR for the respondent.

CORAM: Hon'ble Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Rakesh Kumar, Member (Technical)

STAY order NO 1685-1686/2012-Br(BR)
FINAL Order No. A/1241-1242/12/Dated:21.09.2012 Br(BR)

**Per Rakesh Kumar:**

The appellant were engaged in the manufacture of Printed Aluminum Foil, Printed Aluminium Blisters, Printed HSL Paper, PG paper Wash Coated, etc. and were paying duty on the same; treating their process as manufacture. They availed the Cenvat Credit of duty paid on the inputs under in or in relation to manufacture of their final products. The Department being of the view that Appellant's activity did not amount to manufacture and hence neither any duty was payable on that final products, nor they were eligible for Cenvat input duty Cenvat Credit, issued a Show Cause Notice for denial of Cenvat Credit amounting to Rs. 67,83,144/-, its recovery along with interest and also for imposition of penality. The Show Cause Notice was adjudicated by the Commissioner who vide order-in-original dated 21.12.11 confirmed the Cenvat Credit demand along with interest and imposed penalty of equal amount. Besides this, penalty of Rs.5 lakh was also imposed on Shri Sudhir Suri, Director of the appellant company. Against this order of the Commissioner (Appeals), these appeals along with stay applications have been filed.

2. Heard both the sides. Though this matter is listed for hearing of stay application only After hearing the same for some time, we were of the view that the same can be taken up for final disposal. Accordingly the requirement of pre-deposit is waived and with the consent of both the sides the matter is heard for final disposal.

3. Shri Vijay Kumar, Consultant, ld. Counsel for the appellants pleaded that in this year's budged by introducing a Chapter Note in this 1st Schedule to the Central Excise Tariff Act, 1985, the Appellant's activity has been made an amounting to manufacture, that for the prior period, the Board has issued a notification no.24/2012 CE (NT) dated 19.04.2012 under Section 5 B of the Central Excise Act, that in view of the notification issued under Section 5B, the credit taken by the Appellant, who had paid duty on Printed Aluminium Foil, Printed Aluminium Blisters, Printed HSL Paper, PG paper wash, etc., is not required to be reversed subject to the condition that he does not claim refund of the duty paid, that in view of this notification, this demand would not survive as the appellant satisfy the conditions of the notification, that in view of this, the matter may be remanded to the Commissioner for de novo decision in the light of the notification no.24/2012 dated 19.04.2012.

4. Ms. Ranjana Jha, Joint CDR stated that she has no objection if the matter is remanded to the Commissioner for 'de-novo adjudication' in the light of the notification dated 19.04.2012, issued under Section 5 B.

5. We have considered the submissions from both the sides. We are of the view that in view of notification no.24/2012 dated 19.4.2012, the matter has to be re-examined by the Commissioner, as while confirming the cenvat credit/- demand, this notification issued under Section 5B of the Central Excise Act, 1944 has not been considered. In view of this, the impugned order is set aside and the matter is remanded to the Commissioner for de novo adjudication in the light of the notification no.24/2012 dated 19.4.2012- CE(NT). The appeals and the stay applications stand disposed of as above.

( Archana Wadhwa )
Member (Judicial)

(Rakesh Kumar )
Member (Technical)

Ckp.