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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

Date **20/04/2012**

Appeal No. E/2867/2011 - EX[DB]
E/S/3687/2011-EX

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

To :
M/S LIBERTY WHITEWARE LTD.
30, RIICO INDUSTRIAL AREA, DELHI-JAIPUR
HIGHWAY (NH-8), NEEMRANA, DISTT. ALWAR
(RAJASTHAN)
301705

M/S LIBERTY WHITEWARE LTD. Appellant
Vs
C.C.E. JAIPUR I Respondent

STAY ORDER NO. 668/2012-EX.

I am directed to transmit herewith a certified copy of **Final order No.** A/456 **2012 EX|DB|** dated 18-4-12 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.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-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.2, R.K.Puram, New Delhi

COURT-I

Date of hearing/decision: 18.4.2012

Stay Application No.3687 of 2011 and
Central Excise Appeal No.2867 of 2011

Arising out of the order in appeal No.246 (DKV) CE/JPR-I/2011 dated 8.9.2011 passed by Commissioner of Customs & Central Excise (Appeals-I), Jaipur.

Hon'ble Mr. Justice Ajit Bharihoke, President
Hon'ble Mr. 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?	
2	Whether it should be released under Rule 26 of 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?	

Liberty Whiteware Ltd. .. Appellant

Vs.

C.C.E., Jaipur I .. Respondent

Present Shri Amit Jain with Shri Shanki Agarwal, Advocates for the appellants

Present Shri N. Pathak , A.R. for Revenue

Coram: Hon'ble Mr. Justice Ajit Bharihoke, President
Hon'ble Mr. Rakesh Kumar, Technical Member

STAY order No. 668/2012 – Ex(BR)
FINAL Order No. A/456/2012 – Ex(BR)

Per Justice Ajit Bharihoke (Oral):

This appeal is directed against the order of Commissioner of Customs, Central Excise (Appeals), Jaipur I whereby he dismissed the appeal of the present appellant on technical ground of non-compliance of the direction to make pre-deposit of Rs.25 lakhs by the stipulated date.

2. Learned Counsel for the appellant submits that the appellant did not comply with the order of pre-deposit because he was pursuing his writ petition filed against the order in original directing him to deposit of Rs.25 lakhs in the High Court. The appellant subsequently withdrew the appeal and deposited the amount of Rs.25 lakhs as directed along with balance demand. It is submitted that as on date, the entire demand has been deposited. Thus, it is submitted that the default on the part of the appellant was unintentional and it occurred only because the appellant had challenged the order of pre-deposit.

3. Shri N. Pathak, A.R. for the Revenue has fairly conceded that the appeal has been dismissed only on technical ground of failure to comply with the direction of pre-deposit and since the entire amount of duty has been deposited, the Department has no objection if the order of the Commissioner (Appeals) is set aside and the matter is remanded back for hearing afresh.

4. In view of the above, we allow the appeal. Impugned order is set aside and matter is remanded back to the Commissioner (Appeals) for deciding on merits.

(Justice Ajit Bharihoke)
President

(Rakesh Kumar)
Technical Member

scd/