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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 **25/04/2012**

Appeal No. E/2554/2005 - EX[DB]

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

To :
C.C.E.GURGAON
UDYOG MINAR YDYOG VIHAR VINIJYA NIKUNJ
PHASE-V,GURGAON
122016

C.C.E.GURGAON — Appellant

Vs

M/S JERSEY INDIA LTD. — Respondent

I am directed to transmit herewith a certified copy of **Final order No.A/464** **2012** **EX[DB]** dated 20-4-12 passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
M/S JERSEY INDIA LTD.
VILL-KHERI DAULA SIHI
SIKANDERPUR ROAD GURGAON

2. Adv. / Consult

NONE

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 20.4.2012

Excise Appeal No. 2554 of 2005

(Arising out of the Order in Appeal No. 243/AKG/GGN/2005 dated 18.05.2009 passed by Commissioner, Central Excise, Delhi-III, Gurgaon)

Hon'ble Mr. Justice Ajit Bharihoke, President
Hon'ble Mr. Rakesh Kumar, Member (Technical)

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?	

CCE, Delhi-III — Appellants

Vs.

M/s Jersey India Limited — Respondent

Present Shri Sanjay Jain, AR for the appellants.
None for the respondent.

Coram: Hon'ble Mr. Justice Ajit Bharihoke, President

Hon'ble Mr. Rakesh Kumar, Member (Technical)

FINAL ORDER No. A/464/2012-Ex(BR)

Per Justice Ajit Bharihoke: (Oral)

This appeal is directed against the Order in Appeal No. 243/AKG/GGN/2005 dated 18.05.2009 of Commissioner, Central Excise, Delhi-III, Gurgaon. He accepted the appeal of the assessee and set aside the order-in-original passed by the Deputy Commissioner, Central Excise confirming the demand of Rs.2,82,564/- under Rule 9(2) read with Section 11A of the Central Excise Act with interest and also imposed penalty of Rs. 50,000/- under Rule 173Q.

2. It may be noted that similar issue between the same parties came up in appeal before the Tribunal in **Jersy India Limited vs. CCE, New Delhi reported in 2001 (131) ELT 434 (Tri. Del.)** and the Tribunal dismissed the appeal of the department against the order of the Commissioner (Appeals) setting aside the order-in-original. The appellant-department had challenged the said order in the Supreme Court and the Supreme Court vide judgement reported in 2007 (209) ELT 7 (SC) dismissed the appeal against the order of the Tribunal with the following observations:-

> "12. The official liquidator thereafter filed an application before the High Court seeking a direction from the High Court to pay dividend to workmen and secured creditors as per claim filed. The High Court by its order dated 24.3.2005 allowed the said application. In pursuance to the aforesaid order the official liquidator has disbursed the claims of the secured creditors. After disbursing the amount the official liquidator is now left with a balance sum of Rs. 14,55,545.50 which is to be adjusted towards government commission, liquidator expenses and other related expenses.
>
> 13. In view of the fact that the company in question and its assets/ properties have already been sold and there is nothing which can be recovered by the revenue, we put an end to this litigation leaving the question of law open.
>
> 14. The appeals are disposed of."

3. Ld. AR when asked whether the respondent company in question is in existence stated that the respondent company has been liquidated and its assets and properties has already been sold. That being the case, whatever may be the fate of the appeal, there is nothing which can be recovered by the revenue. Therefore, taking note of above referred order of the Supreme Court, we do not find any purpose in keeping the appeal alive. Appeal is accordingly dismissed as infractuous.

(Justice Ajit Bharihoke)
President

(Rakesh Kumar)
Member (Technical)

Pant