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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/265 /2006 - EX[DB] Date **04/05/2012**

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

To :
MERINO PANEL PRODUCTS LTD.
44,KM, STONE, DELHI-ROHTAK ROAD, VILLAGE-
ROHTAK, DIST-JHAJJAR.

MERINO PANEL PRODUCTS LTD. Appellant

Vs

C.C.E. DELHI III Respondent

I am directed to transmit herewith a certified copy of **Final order No. A/515 2012 EX[DB]** dated 02-5-12 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. DELHI III
UDYOG MINAR, UDYOG VIHAR,
VANIJYA NIKUNJ, PHASE V,
GURGAON - 122016 (HARYANA)

2. Adv. / Consult
MR.C.HARISHANKAR
46, BANK ENCLAVE,DELHI-110092

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)

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

Date of Hearing/Decision:2.5.2012

Hon'ble Mr. Justice Ajit Bharihoke, President
Hon'ble Mr. Rakesh Kumar, 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.	
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?	

Excise Appeal No.265 of 2006

M/s.Merino Panel Products Ltd. ...Appellant

Vs.

CCE, Delhi-III ...Respondent

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

Appearance:
Shri S. Sunil, Advocate for the appellant.
Shri Sunil Kumar, AR for the respondent.

FINAL Order No. A/515/2012-EX(BR)

Per Justice Ajit Bharihoke:

This appeal is directed against the order of the Commissioner (Appeals), whereby he confirmed the duty demand of Rs.2,86,932.07 imposed on the appellant along with interest and penalty of Rs.20,000/- by the Adjudicating Authority.

2. Only issue raised in this appeal is whether the goods manufactured by the appellant and cleared by them i.e. Pre-laminated MDF Board and Pre-laminated Particle Board are classifiable under Heading No.4406.90 or 4408.90 of the Central Excise Tariff applicable at the relevant time. The Adjudicating Authority and the Commissioner have confirmed the demand on the premise that the goods cleared by the appellant are classifiable under Chapter Entry 4408.90 whereas the contention of the appellant is that the Commissioner (Appeals) ought to have classified the goods falling under Heading 4406.90.

3. At the outset, ld. Authorised Representative for the respondent submitted that this issue stands finally settled by the judgement of the Hon'ble Supreme Court in the case of Commissioner of Central Excise, Noida Vs. Kitply Industries Ltd. – 2011 (272) ELT 3 (SC) wherein the Supreme Court has held that pre-laminated MDF Board and Pre-laminated

Particle Board fall within the Heading 4408.90 of the Central Excise Tariff Act.

4. Ld. Counsel for the appellant has fairly conceded that the judgement of Supreme Court cited by the ld. Authorised Representative is applicable to the facts of this case.

5. Since the issue in dispute is squarely covered by the judgement of the Supreme Court referred to above, following the ratio of the judgement, we do not find any reason to interfere with the order of the Commissioner (Appeals). Accordingly, the appeal is dismissed.

(Justice Ajit Bharihoke)
President

(Rakesh Kumar)
Member (Technical)

Ckp.