

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
CUSTOMS APPEAL BRANCH

Appeal No. ST/748 /2008 - CU[DB]

Date 29/05/2012

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

To :
M/S EBIZ. COM PVT. LTD.
D-210, SECTOR-10,
NOIDA. (U.P.)
M/S EBIZ. COM PVT. LTD.

Appellant

Vs
Respondent

C.C.E. MEERUT II

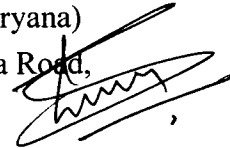
I am directed to transmit herewith a certified copy of **Final order No.ST/A/401/ 2012 CU[DB]** dated 23.05.12

passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**


Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
C.C.E. MEERUT II
OPP. SAHEED PARK (NEAR
ASHOK KI LAT) DELHI ROAD,
MEERUT (UP)
2. Adv. / Consult
MR.J.K.MITTAL &CO
A-15,THIRD FLOOR,PRIYADARSHINI
VIHAR 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 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. Office Copy
13. Guard file


Assistant Registrar
(Customs Appeal Branch)

**CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM,
NEW DELHI-110066**

COURT NO. II

Service Tax Appeal No. 748 of 2008

[Arising out of Order-in-Appeal No. 99/CE/APPL/NOIDA/08 dated 28.8.2008 passed by the Commissioner (Appeals) of Customs & Central Excise, Meerut-II (NOIDA)]

Date of Hearing/decision: 23rd May, 2012

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?	

M/s. EBIZ Com. Pvt. Ltd.,

Appellant

Vs.

CC & CE, Meerut-II, Noida

Respondent

Present for the Appellant : Shri J.K. Mittal, Advocate

Present for the Respondent : Shri Sumit Kumar, D.R.

**Coram: Hon'ble Shri D.N. Panda, Judicial Member;
Hon'ble Shri Mathew John, Technical Member**

FINAL ORDER NO. ST/A/401/12-CW.

Per D.N. Panda:

Learned Counsel Shri Mittal argued that during the process of adjudication, tax element, interest and penalty of 25% of tax demanded was deposited. Probably, such deposit aspect was not placed before ^{learned} first appellate

authority. But such fact has been recorded by the Tribunal in its order dated 17.12.2008, while disposing stay application No. 2263/2008 whereas learned Commissioner (Appeals) dismissed the appeal for non-compliance to stay order vide his order date d29.8.2008 which is under challenge.

2. Primarily, when the aforesaid aspect is undisputable, and learned first appellate authority has not disposed the appeal on merit, in all fairness the appellant should get an opportunity of hearing appeal by the said authority. Therefore, matter is remitted back to the learned Commissioner (Appeals) to grant fair opportunity of hearing to the appellant as expeditiously as possible in view of undisputed aspect of payment recorded by the Tribunal as aforesaid. We appreciate that the matter is nearly 5 years old and need not be kept pending at the first appellate stage upon remand. Therefore, the appellant is directed to make an application for fixing of date of hearing within 4 weeks of receipt of this order and if such application is made, the authority shall fix the appropriate date for hearing and dispose the appeal within the reasonable time of completion of hearing.

(Dictated & pronounced in the Open Court.)

(D.N. PANDA)
JUDICIAL MEMBER

(MATHEW JOHN)
TECHNICAL MEMBER

RK