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

Appeal No. : C/110/2012-CU[DB], C/111/2012-CU[DB], C/112/2012-CU[DB]
C/S/998-1000/2012

Dated: 26/06/2012

Assistant Registrar
C.E.S.T.A.T. New Delhi
To,
INDUS CHEMITEX LTD
SHOP NO 3, G-27/13, SECTOR - 3,
ROHINI, DELHI 110085

Indus Chemitex Ltd

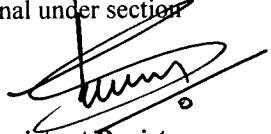
(Appellant)

VS

C.C.-New Delhi

(Respondent)

I am directed to transmit herewith a certified copy of Final Order No.C/A/170-172/12-CU[DB] dated 19/06/2012 and Stay/MISC Order No. and C/SO/177-179/2012 passed by the Tribunal under section 129-A(4) of the Customs Act, 1962.


Assistant Registrar
CUSTOMS Appeal Branch

Copy To,

1. Respondent

C.C.-New Delhi
17-B, I.A.E.A. House, M.G.
Road, I.P. Estate, New Delhi, 110002

2. Advocate(s) / Consultant(s):

3. C.D.R

4. Bar Association, CESTAT, New Delhi

5. Director Publications, Customs, Excise. I.P. Estate, New Delhi

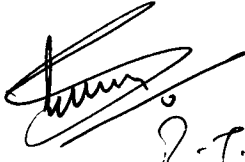
6. M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp. ICICI Bank of Defence Colony, New Delhi-3

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)


P.T.O.

11. TaxIndiaOnline.com Pvt. Ltd., Unit No. 1, 2nd Floor, Vasant Arcade, Nelson Mandela Road, Vasant Kunj, New Delhi - 110070

12. Office Copy

13. Gaurd File

**Assistant Registrar
CUSTOMS Appeal Branch**

14. **Shri Sajjan Kumar**
K-27, Chanakya Place Part Ii, New Delhi
110059

15. **Rajeev Goel**
F-1/14, Budh Vihar, Phase I, New Delhi

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

COURT NO. II

**C/Stay/998 to 1000/2012 in and
Customs appeal No. 110 to 112/2012**

[Arising out of Order-in-Original No. 06/2012 dated 23.02.2012 passed by the Commissioner of Customs, ICD, Tughlakabad, New Delhi]

Date of Hearing/decision: 19th June , 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. Indus Chemitex Ltd.,
Shri Sajjan Kumar,
Shri Rajeev Goel

Appellants

Vs.

C.C., ICD, Tughlakabad,
New Delhi

Respondent

Present for the Appellant : Shri Rajesh Yadav &
Shri Virender Tarun, Advocates
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. C/A/170-172/12- Cus.
Stay order No. C/S/177-179/12- Cus.

Per D.N. Panda:

The matter before us is on a very short point, as to whether the order passed by learned Commissioner on 23.2.2012 was following course of natural justice to exercise power under proviso to Sub-section (2) of Section 110 of Customs Act, 1962. Learned Counsel for the appellants submits that grievance of the appellants is that the materials were used behind the back of the appellants to pass the impugned order contrary to the provisions of statute.

2. When the question of violation of principle of natural justice comes up, it would not be proper to keep the appeal pending since that may effect right of both the parties. Therefore, in the interest of justice, we send the matter back to the learned Commissioner to decide the matter afresh on the basis of materials which satisfy him to exercise the power under proviso to Section 110(2) of Customs Act, 1962, granting fair opportunity of hearing to the appellants and pass a reasoned and speaking order. This process has been adopted to reduce litigation as expeditiously as possible. The appellants are directed to appear before the Commissioner on 2nd July, 2012 with an application to fix date of hearing. On such application, the authority shall fix date of hearing and expose the material intended to be used for exercising power under the aforesaid provision of law.

3. Since grievance of violation of principle of natural justice made by the appellant is incurable at appellate stage, the matter should be settled at the grass root level for which stay applications are disposed and appeals are also disposed by way of remand to the adjudication authority.

(Dictated & pronounced in the Open Court.)

(D.N. PANDA)
JUDICIAL MEMBER

(MATHEW JOHN)
TECHNICAL MEMBER

RK