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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/691 /2008 - CU[DB]   Date 13/03/2012

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

To :
M/S SWATI FREIGHT MOVERS.,
PP-99, 2ND FLOOR, PITAMPURA, DELHI.-110088.

M/S SWATI FREIGHT MOVERS., Appellant

Vs

C.C. NEW DELHI (IMPORT & GENERAL) Respondent

I am directed to transmit herewith a certified copy of **Final order No.C/A/60/ 2012 CU[DB]** dated 24.02.12 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. NEW DELHI (IMPORT & GENERAL)
NEW CUSTOM HOUSE, NEAR
I.G.I. AIRPORT, NEW DELHI
110037.

2. Adv. / Consult
MR.PIYUSH KUMAR,ADV
B-25,LAJPAT NAGAR-III,N.DELHI

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
(Customs Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. II

DATE OF HEARING : 24/02/12.

Customs Appeal No. 691 of 2008

[Arising out of the Order-in-Original No. 05/POLICY/MKG/2008 dated 20/08/2008 passed by The Commissioner of Customs (Import & General), New Delhi.]

For Approval and signature :
Hon'ble Shri D.N. Panda, Judicial Member
Hon'ble Shri Rakesh Kumar, Technical Member

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	:	Yes
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	:	Yes
3.	Whether their Lordships wish to see the fair copy of the order?	:	Seen
4.	Whether order is to be circulated to the Department Authorities?	:	Yes

M/s Swati Freight Movers — Appellant

Versus

CC, New Delhi — Respondent

Appearance

Shri Piyush Kumar, Advocate – for the appellant.

Shri B.L. Soni, Authorized Representative (DR) – for the Respondent.

CORAM : **Hon'ble Shri D.N. Panda, Judicial Member**
Hon'ble Sh. Rakesh Kumar, Technical Member

Final Order No. C/A/60/12-Cus Dated : ____________

Per. D.N. Panda :-

Shri Piyush Kumar, learned Counsel submits that the list of the dates and events appearing at page A to C of the paper book establishes that the CHA licence of the appellant was suspended on 20/08/2008. But that was renewed on 19/1/2009. Soon after renewal, the appellant faced charges under Customs Act, 1962 in terms of show cause notice dated 15/5/2009 and that was adjudicated on 27/1/2010 exonerating it from charges. Once renewal of the CHA licence is done, suspension of the licence does not subsist because on renewal, suspended licence is deemed to have been renewed. Accordingly, appeal may be allowed and the suspension order existing at page 11 to the appeal memorandum may be set aside.

2. Shri Soni, learned representative of Revenue submits that employee of CHA was implicated to the charges getting let export order in connivance with the officers.Therefore suspension of the licence was warranted.

3. Heard both sides and perused the record.

4. It does not appeal to commonsense how a renewed licence made valid on 19/1/2009 can be said to have been suspended. Once the suspension was substituted by renewal soon after three months of the suspension, we do not understand how Revenue acted so carelessly to continue the suspension of licence on record

when renewal was ordered. On such reasoning, the suspension order at page 11 is set aside and appeal is allowed.

5. There is nothing before us from Revenue to show us whether any incriminating material exists against the CHA to allow the suspension order to continue. Unless otherwise required, we have no hesitation to say that Revenue administration may follow the law for fresh cause of action, if any. Also We do not say that investigation, if any, against the CHA is obstructed by this order.

(Dictated and pronounced in open court.)

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

PK