

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

Appeal No. C/S/2181/2011 IN C/369 /2011 - CU[DB]

Date 04/04/2012

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

To :
C.C. ICD, TUGHLAKABAD,
NEW DELHI 110020.
C.C. (ICD) NEW DELHI

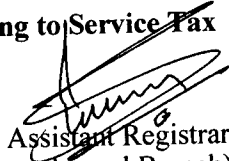
Appellant

Vs
Respondent

DOKA INDIA PVT. LTD.

STAY ORDER NO.C/S/100/2012

I am directed to transmit herewith a certified copy of **Final order No.C/A/104/ 2012 CU[DB]** dated 27.03.2012 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

DOKA INDIA PVT. LTD.

OFFICE NO. 201 & 202, "SENTINEL" BUILDING,
HIRANANDANI BUSINESS PARK, 2ND FLOOR,
NO. 201 & 202, POWAI, MUMBAI.

2. Adv. / Consult

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

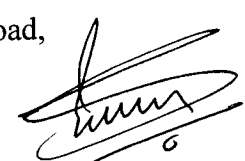
9. Easy Service Tax Online Dot Com Pvt.Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-15

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)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. III**

**Customs Appeal No. 369 of 20011
Customs Stay Application No. 2181 of 20011**

[Arising out of Order-in-Appeal No. CC(A) Cus./ICD/121/11 dated 28.3.2011 passed by the Commissioner of Customs, New Delhi]

For approval and signature:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Mathew John, Member (Technical)

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- | | |
|--|------|
| 1. Whether Press Reporters may be allowed to see :
the Order for publication as per Rule 27 of the
CESTAT (Procedure) Rules, 1982? | No |
| 2. Whether it should be released under Rule 27 :
of the CESTAT (Procedure) Rules, 1982 for
publication in any authoritative report or not? | No |
| 3. Whether Their Lordships wish to see the fair :
copy of the Order? | Seen |
| 4. Whether Order is to be circulated to the :
Departmental authorities? | Yes |
-

Commissioner of Customs
New Delhi

Appellants

Vs.

M/s. Doka India Pvt. Ltd.

Respondent

Appearance:

Shri K.K. Jaiswal, DR for the Appellants
None for the Respondent

CORAM:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
 Hon'ble Mr. Mathew John, Member (Technical)

Stay order No. C/S/100/12-Cus.
 Date of Hearing/decision : 27.03.2012
 Final ORAL ORDER NO. C/A/104/12-Cus.

Per Archana Wadhwa (for the Bench):

After rejecting the request for staying the operation of the order of Commissioner (Appeals), we proceed to decide the appeal itself inasmuch as short issue is involved.

2. Vide his impugned order the Commissioner (Appeals) has remanded the matter to the lower authorities inasmuch as no show cause notice stands given to the respondents and no opportunity of hearing stands afforded. The issue involved is refund of Special Additional Duty of Customs and requires verifications.
3. The Revenue's only grievance is that Commissioner (appeals) was not having any powers to remand the matter.
4. However, we find that inasmuch there was gross violation of principles of natural justice by the original adjudicating authority, the matter was required to be re-adjudicated by him after observing the principles of natural justice. As such, without going into the legal issue of Commissioner (Appeals) having powers to remand or not and by taking note of the fact that Tribunal has the remand powers, we remand

the matter to the original adjudicating authority for fresh decision after observing the principles of natural justice.

5. Revenue's stay petition and appeal get disposed of in the above manner.

(Pronounced in the open Court)

(Archana Wadhwa)
Member(Judicial)

(Mathew John)
Member(Technical)

SS