

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL, MUMBAI
REGIONAL BENCH**

Excise Appeal No. 651 of 2012

(Arising out of Order-in-Appeal No. YDB/6/M-I/2012/3755 dated 23.01.2012 passed by the Commissioner of Central Excise (Appeals), Mumbai-I)

M/s. Godfrey Phillips India Ltd.

Appellant

Chakala, Andheri (E), Mumbai 400 093.

Vs.

Commissioner of Central Excise, Mumbai-I

Respondent

115, New Central Excise Building,
Maharshi Karve Road,
Churchgate, Mumbai 400 020.

Appearance:

Shri Rajesh Ostwal, Advocate, for the Appellant

Shri Sanjay Hasija, Superintendent, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. SANJIV SRIVASTAVA, MEMBER (TECHNICAL)
HON'BLE DR. SUVENDU KUMAR PATI, MEMBER (JUDICIAL)

FINAL ORDER NO. **A/87017/2021**

Date of Hearing: 22.10.2021

Date of Decision: 22.10.2021

PER: SANJIV SRIVASTAVA

This appeal is directed against order in appeal No YDB(6)MI/2012 dated 23.01.2012 of the Commissioner (Appeals) Central Excise Mumbai Zone – I, Mumbai. By the impugned order, the Commissioner (Appeals) has upheld order in original No 32/M-I/2010-11/JC dated 27.03.2011 of the Joint Commissioner Central Excise Mumbai – I holding as follows:

“37 In view of the above discussions and findings, I pass the following order:

- i. I confirm the Central Excise duty totally amounting to Rs 19,92,949/- (Rupees Nineteen Lakhs Ninety Two Thousand Nine Hundred and Forty Nine Only) under the provisions of Section 11A(1) of the Central Excise Act, 1944 and order recovery of the said amount from M/s GPIL.*

- ii. *I confirm and order recovery of interest from M/s GPIL, under the provisions of Section 11AB of the Central Excise Act, 1944.*
- iii. *I impose a penalty of Rs 5,00,000/- (Rupees Five Lakhs) on M/s GPIL under Rule 25 of the Central Excise Rules, 2002, for wrongly availing of the benefit of Notification No 46/2001 CE (NT) dated 26.06.2001 and clearing the goods without payment of duty to M/s Alpha Future Airports Pvt Ltd.*
- iv. *Further, I impose a penalty of Rs. 3,00,000/- (Rupees Three Lakhs) on M/s Alpha Future Airports Pvt Ltd, under Rule 26 of the Central Excise Rules, 2002."*

2.1. The Appellants had cleared Cigarettes falling under Chapter Sub-Heading 2402, to *M/s Alpha Future Airports Pvt Ltd*, without payment of duty following the procedure under notification 46/2001-CE NT, without payment of duty.

2.2 Alleging that *M/s Alpha Future Airports Pvt Ltd*, were not eligible from payment of Central Excise Duty, as

- there was no valid provision in terms of a notification under Section 5A of the Central Excise Act, 1944 or Rule 19 of the Central Excise Rules, 2002, were in force at the relevant time;
- they had not taken registration under Rule 9 of the Central Excise Rules, 2002,

a show cause notice dated 16.02.2010 was issued to appellant, asking them to show cause as to why:-

- i. The Central Excise duty totally amounting to Rs 19,92,949/- (Rupees Nineteen Lakhs Ninety Two Thousand Nine Hundred and Forty Nine Only) should not be demanded and recovered from them under Section 11 A (1) of the Central Excise Act, 1944 as shown in Annexure 'A' to this notice.
- ii. Interest should not be recovered from them under the provisions of Section 11 AB of the Central Excise Act, 1944.
- iii. Penalty should not be imposed on them under Rule 25 of the Central Excise Rules, 2002, for wrongly availing of the benefit of Notification No 46/2001 CE (NT) dated

26.06.2001 and clearing the goods without payment of duty to M/s Alpha Future Airports Pvt Ltd.

2.3 Show Cause Notice was adjudicated by the Joint Commissioner as per order in original referred to in para 1, supra.

2.4 Aggrieved by the order of Joint Commissioner, Appellant preferred appeal before the Commissioner (Appeals). The appeal was disposed of by the Commissioner (Appeals) as per the impugned order.

2.5 Aggrieved appellants have preferred this appeal.

3.1 We have heard Shri Rajesh Ostwal, advocate for the appellant and Shri Sanjay Hasija, Superintendent, Authorized Representative for the revenue.

3.2 Arguing for the Appellant, learned advocate submits-

- Appellants effected these clearance vide Gate Pass dated 5.2.2009 in terms of the permission accorded by the Commissioner of Central Excise vide their letter dated 23.5.2008. The said permission was valid till 13.2.2009.
- The extension of permission to obtain duty free cigarettes from the appellants was rejected vide letter dated 5.8.2009 was for the period after 13.2.2009 without effecting the clearance made in terms of the permission earlier granted until 13.02.2009.
- Alpha Future has not obtained registration since
 - o They being Merchant Exporters have been listed in the "Non-Assessee" category and exempted from registration under Rule 9 of the Central Excise Rules, 2002. This position has been reiterated in the CBEC Circular No. 919/9/2010-CX., dated 23.3.2010;
 - o Notification No. 36/2001-CE. (NT) dated 26.6.2001 exempt persons from taking registration under Rule 9 of the Central Excise Rules, 2002, in case where the assessee is manufacturing excisable goods by following the warehousing procedure under the Customs Act, 1962.
 - o By Notification No. 9/2013 - CE (NT) dated 23.5.2013, para 2A is inserted in Notification No.

36/2001 - CE (NT), whereby it is declared that a godown or retail outlet of a Duty Free Shop is appointed or licensed under the provisions of 58 of the Customs Act, 1962, such godown or retail outlet shall be deemed to be registered as warehouse under Rule 9 of the Central Excise Rules, 2002.

- o Therefore registration under Rule 9 for duty free shop of Alpha Future was not warranted especially when their premise was registered under Section 58 of the Customs Act, 1962.
- CBEC Circular No. 970/04/2013 -CX., dated 23.5.2013 clarifies at para 1(i) it that duty free shops licensed under Section 58 of the Customs Act, 1962 shall be deemed to be registered under rule 9 of the Central Excise Rules, 2002 for the purpose of warehousing of excisable goods meant for sale to international passengers in terms of the Notification No. 7/2013-CE (NT), dated 23.5.2013.
- Undisputedly, the cigarettes were consigned directly to duty free shop, which was a Customs Bonded Warehouse licensed under Section 58 of the Customs Act, 1962, from where they were sold to the outbound/ inbound passengers against payment in foreign currency. Therefore, the impugned cigarettes have been exported by the appellant through merchant exporter namely Alpha Future, and would be covered by the definition of export as per Section 2(19) of the Customs Act, 1962., and hence no duty was required to be paid. [Hotel Ashoka Vs. Asst. CCT – 2012 (276) ELT 433 (SC)].
- Once, the factum of exports is not under dispute, the substantive benefit of duty exemption cannot be denied even if procedural deficiencies.
- The permission letter dated 23.05.2008, fixed liability to pay duty on Alpha Future in the event of any lapse and also secured the revenue by requiring Alpha Future to execute Bond. The appellants cannot be held liable for alleged omission on the part of Alpha Future in taking registration under Rule 9 of the Central Excise Rules, 2002. Therefore, if any duty is to be demanded the same

should be done from Alpha Futures only as has been held in the following cases

- o Eves Fashions [2006 (205) ELT 619 (T)]
- o Kishore Pumps Ltd. [2004 ELT 45 (T)]
- o Tejal Paper Mills Pvt. Ltd. [2003 (156) ELT 364 (T)]

- As demand itself is not sustainable and hence, penalty is not imposable, and interest is not chargeable

3.3 Learned Authorized Representative reiterates the findings recorded by the Joint Commissioner and the Commissioner (Appeal) in the impugned order.

4.1 We have considered the impugned order along with the submissions made in appeal and during the course of arguments.

4.2 Undisputed facts as recorded in para 4 to 6 of the Show Cause Notice are reproduced below:

“3. M/s Alpha Future Airport Retail Pvt. Ltd. (hereinafter referred to as M/s Alpha Future) having office at Gurgaon are having Pvt. Bonded Warehouse License No.53/07 dt. 14/02/07 as amended on 26/03/07 in respect of premises at I.G.I Airport New Delhi, issued by the Commissioner of Customs (Air Cargo Export) under Section 58 of the Customs Act 1962. M/s Alpha Future made applications through M/S.GPI under their letters dt. 16/04/07 and 28/01/08 to the Commissioner of Central Excise, Mumbai-IV requesting clearance of cigarettes, manufactured by M/S GPI without payment of any central excise duties, to M/S Alpha Future Airport Retail Pvt. Ltd. for sale by them through their Duty Free Shops (DFS) situated at International Airport at New Delhi.

4. WHEREAS on the basis of said applications/representations, the Commissioner of C. Excise, Mumbai - IV had granted the said permission to Alpha Future and M/S GPI from time to time as detailed below:-

- i. Letter F.No: V-30(269)T-4/2003/MIV dated 07.05.2007 for the period from 07.05.2007 to 13.02.2008*
- ii. Letter F.No: V-30(269)T-4/2003/MIV dated 23.05.2008 extending the permission upto 13.02.2009.*

5. *The permissions under the above referred letters were granted for availing of the procedure of removal and receipt in bond, of cigarettes, without payment of duty, manufactured by M/S GPI, Mumbai and disposal by M/s Alpha Future through their (Alpha Future's) said Duty Free Shop, on the conditions mentioned therein and also subject to the compliance of conditions of Notification No.46/2001CE(NT) dated 26.06.2001 and the procedure as prescribed under Circular No 581/18/2001-CX dated 29.06.2001, According to the said Circular, the exporter was required to make a written request along with application for registration under Rule 9, to the Commissioner for allowing establishing an export warehouse under this provision. The permissions so granted were also subject to following conditions and procedure laid down under Board's letter F.No.24/10/69-CX-IV/8 dated 22.06.1970 and on execution of bonds and on furnishing the bank guarantees by M/s Alpha Future.*

6. *WHEREAS in pursuance of said applications/ representations made by Alpha Future and on the basis of said permissions given as mentioned in para 5 above, M/s. GPI cleared 11,00,000 Nos of cigarettes of different brands, without payment of duty under the invoice no. B-164 dated 05.02.09 covered under the Annexure A No. 04 dated 05.02.09 and the said cigarettes were received by Alpha Future for sale by them (Alpha Future) at their Duty Free Shops situated at Indira Gandhi International Airport at New Delhi. M/s Alpha Future also furnished Bond and Bank guarantees from time to time for covering the clearances of said non-duty paid cigarettes received by them from M/S GPI."*

4.3 From the facts as stated above, as per the show cause notice it is quite evident that M/s Alpha Future were granted permission to receive the impugned goods without payment of duty from the appellant for being bonded in their bonded warehouse licensed under Section 58 of the Customs Act, 1962, for sale through their duty free shops located at Indira Gandhi International Airport, New Delhi. Para 5, also records that impugned goods were received by M/s Alpha Future in their bonded warehouse. Alpha Future had executed Bond with prescribed Bank Guarantees from time to time for covering the

clearances of the said non duty paid cigarettes received by them from the Appellant. It is not the case of the revenue that these goods were cleared by the appellant in contravention of any of the conditions as per the permission accorded to them by the Commissioner.

4.4 Rejecting the contentions raised by the appellant in their appeal, Commissioner (Appeal) has observed as follows:

"The appellant contended that, they have cleared the goods to M/s. Alfa Future as per the permission granted by the Commissioner, Central Excise, Mumbai-IV, but while rejecting the request for extension the permission, for further period, department has given the reason that they have not fulfilled the conditions of Notification No.46/2001 C.E.(NT) dated 26.06.2001 and Board's Circular No.581/18/2001-CX dated 29.06.2001. The condition procedure prescribed in para 4.1.1 of the said circular state that: -

"the exporter shall make a written request along with application for registration under Rule 9 to the Commissioner for allowing to establish a export warehouse under this provision"

In this regards, appellant's contention that, when M/s. Alfa Future has registered with the Commissioner of Customs, (Air Cargo Exports) under Rule 58 of Customs Act, 1962, then there is no need to be registered under Rule 9 of Central Excise Rules, 2002, but for the same, they have not quoted any authority and thus their said contention is not acceptable. Further, it was found that, the cigarettes cleared without payment of duty by appellant to M/s. Alfa Future, for sale in duty free shop located at 1.G.I.Airport, were not eligible for any exemption from payment of any central excise duty as there was no valid provisions in Central Excise Law. For the exemption from payment of Central Excise Duty, on these cigarettes, neither a notification issued under section 5A of Central Excise Act, 1944, nor under any notification issued under Rule 19 of Central Excise Rules, 2002, were in force at the relevant period of time and also there was no provision in existence deeming such removal as export and thus appellant had wrongly availed of the exemption for clearances of cigarettes without payment of duty, for sale by M/s. Alfa Future through their duty free shops.

The appellant have contended that the goods have actually been exported and when the goods are exported, the duty cannot be demanded. In the instant case, the show cause notice have not alleged that the goods have not been exported, but allegation is that, they have not followed the procedure as laid down under Notification No.46/2001 C.E. (NT) dated 26.06.2001 and Board's above mentioned circulars. The appellant have relied upon various case law's, but said case law's have no relevance to the present case as the present case relates to the compliance of condition/instructions of Circulars/ Notification in respect of duty free clearances, which were not followed by them and thus the ratio of the same is not applicable in the instant case.

The appellant contended that, the department had categorically stated in the permission granted to M/s. Alfa Future that, in case of failure to export such duty free cigarettes, the Central Excise Duty is liable to be paid by M/s. Alfa Future and not by appellant. In this regards, I find that the issue involved in the present case is of 'not fulfilling the conditions of Notification/Circular' and not export of the goods' and thus as a manufacturer of the said goods, which was cleared without payment of duty, the appellant are liable to pay the duty. As the appellant is liable for payment of duty, on the cigarettes cleared by them, without payment of duty to M/s. Alfa Future, the same is recoverable with interest and they also liable for imposition of penalty."

4.5 We are not in position to agree with the findings recorded by the Commissioner (Appeal) simply for the reason that clearance of the impugned goods on 05.02.2009 was made by the Appellant in terms of the proper permission accorded by the Commissioner, to M/s Alfa Future, for receiving the non duty paid goods from the appellant. It is not even the case of the department that these goods were cleared contrary to the permission accorded by the Commissioner. Even while rejecting the permission for the subsequent period i.e. with effect from 13.02.2009, Commissioner has not stated in respect of the permission granted earlier, or questioned any of the clearances made in terms of permission granted.

4.6 At the time of granting the permission, Commissioner would have satisfied himself in respect of fulfillment of all the conditions prescribed and in our view he was right in doing so.

The conditions for registration under Rule 9 of the Central Excise Rules as per Circular No 581/18/2001-CX dated 29.06.2001 was qua the exporter who intended to clear the goods for export from his warehouse. M/s Alpha Future have been granted the license under Section 58 of the Customs Act, 1962 for operating such a bonded warehouse to receive, store and subsequently clear for export the goods so received. Once he fulfilled these conditions the condition of registration under rule 9 of Central Excise Rules, was merely procedural and could not have been reason for the denial of substantial benefit that was claimed by M/s Alpha Futures. Subsequently Central Government issued Notification No 07/2013-CE (NT) dated 23.05.2013 dispelled any doubts that existed, stating as follows:

“In exercise of powers conferred by sub-rule (1) of rule 20 of the Central Excise Rules, 2002, the Central Government hereby extends the facility of removal of all excisable goods falling under the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) from the factory of production, intended for storage in a godown or retail outlet of a Duty Free Shop in the Departure Hall or the Arrival Hall, as the case may be, of International Airport, appointed or licensed as "warehouse" under Section 57 or 58 of the Customs Act, 1962 (52 of 1962), as the case may be, and for sale therefrom, against foreign exchange to passengers going out of India or to the passengers or members of crew arriving from abroad, subject to limitations, conditions and safeguards as may be specified by the Central Board of Excise and Customs in terms of sub-rule (2) of rule 20 of Central Excise Rules, 2002.”

& Circular No 970/04/2013 dated 23.05.2013 stating as follows:

(1) Registration of warehouse:

(i) *The godowns and the retail outlets of Duty Free Shops in the departure/ arrival side of the International Airport appointed/licensed under Section 57 or 58 of the Customs Act, 1962 shall be deemed to be registered under rule 9 of the Central Excise Rules, 2002 for the purpose of warehousing of excisable goods meant for sale to international passengers in terms of the aforesaid notification.*

(ii) *For the purpose of control over the receipt, storage and sale of such excisable goods, the officers of Customs having*

jurisdiction over these godowns and retail outlets have been appointed as officers of Central Excise vide notification No. 08/2013-C.E.(N.T.), the dated 23rd May, 2013.

4.7 Further even if we agree to the contentions of the Commissioner (Appeal) then also the demand of duty should have been made from M/s Alpha Futures, who had executed the Bond and Bank Guarantees for availing the benefit of duty free clearances and not the appellant. In case of Kishore Pumps Ltd., referred to by the Appellants it has been held “**3.** *Since the commitment to complete the export has been given by the merchant-exporter, the department is required to recover the duty from the merchant-exporter in terms of the bond executed before the Maritime Commissioner. I, therefore, hold that there is no case for demanding duty from the appellants and the order of the lower authorities is required to be set aside. Accordingly, I allow the appeal and set aside the orders passed by the lower authorities.*”

4.8 In case of Tejal Paper Mills referred to by the Appellant, following has been held:

“**3.1** *I have heard both sides and gone through the record. The bare perusal of the impugned order shows that the duty demand has been confirmed against the appellants mainly on the ground that while clearing the goods, the merchant-exporter failed to produce Block Transfer Certificate which was required to be procured before that, from the Maritime Commissioner. The certificate was produced only on 13-7-1995 whereas the clearance of the goods from the factory premises of the appellants took place on 26-6-1995. But it remains undisputed that the merchant-exporter executed B-1 Bond before the Maritime Commissioner, Bombay, from where the goods were exported. There is nothing on the record to suggest if the goods were so cleared by the appellants, were never exported by that exporter or that the said exporter committed any breach or violation of the terms of the bond. There is also no material to suggest if any action for breach of any provisions of the bond had been initiated or taken against that exporter. The Block Transfer Certificate as even admitted by the Commissioner (Appeals) in the impugned order, was to be taken by the merchant-exporter and not by the appellants.*

4.Regarding the duty liability where the goods had been exported by manufacturer through the merchant-exporter on execution of B-1 bond, in favour of the Maritime Commissioner, Bombay, the Board Circular is quite clear. The Board vide Circular No. 87/87/94-CX., dated 26th December, 1994 has clarified that in such a situation, the liability will be of the merchant-exporter. Therefore, the action, if any, called for was against the exporter and not the present appellants. As observed above, there is no material on the record to suggest if any action had been taken against the exporter. Moreover, the initial lapse, if any, committed by the exporter, of not obtaining the Block Transfer Certificate in time, stood rectified as the same was produced after the clearance of the goods as is evident from the impugned order itself. Therefore, for the minor lapse on the part of the merchant-exporter, the appellants could not be saddled with the duty demand and penalty.”

4.9 Similar view has been expressed in the following decisions where the issue was in respect of non fulfillment conditions of erstwhile Chapter X procedure by the consignee/ receiver of the goods:

- Ferro Alloy Corporation [1994 (71) ELT 931 (T)]
- Vikram Enterprises [2008 (226) ELT 437 (T)]
- IBP Co Ltd [1999 (110) ELT 900 (T)]
- Hindustan Petroleum Corporation Ltd. [2011 (269) ELT (T)]

4.10 The Circular No 581/18/2001, referred by Commissioner (Appeal) states as follows:

“4.2 Execution of bond

4.2.1 Every exporter registered in the aforesaid manner, shall execute before the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise having jurisdiction over the warehouse a general bond under Rule 19 of the Central Excise (No.2) Rules, 2001 for export of goods from the warehouse in the B-3 Bond (General Security) Form annexed to this Circular at Annexure-I. The exporter availing this scheme shall be required to furnish security equal to 25% of the bond amount. In case any bank guarantees are furnished, it shall be the sole responsibility of the exporter to renew its validity.

4.2.2 A "Running Bond Account" will be opened in the format specified at Annexure-II. This register shall be maintained by the exporter in the warehouse and shall be made available to the officer-in -charge or officers of Internal Audit for scrutiny and checkings.

5. Warehousing Procedure

5.1 For removal of excisable goods from a factory or any other premise approved by the Commissioner to a warehouse, procedure laid down in Circular No. 579/16/2001-CX dated 26.6.2001 issued under rule 20 of the said rules will be applicable. It is clarified that the Notification No. 46/2001-CE(NT) dated 26.6.2001 do not cover removal from one warehouse to another.

5.2 The Central Excise Officer in-charge of the warehouse will issue certificate in duplicate of removal in the Form CT-2 specified at Annexure-III indicating details of the general bond executed by the exporter. The CT-2 shall bear per-printed serial numbers running for the whole financial year beginning on the 1st April of each year. The said officer will issue twenty five CT-2 certificates at a time, signing each of the leaf with the official stamp. More certificates can be issued if it is so requested by the exporter on the grounds of large number of procurements. The exporter will fill up the relevant information in CT-2. After making provisional debit in the Running Bond Account, he will indicate the same in the CT-2. One copy of CT-2 will be forwarded to Officer-in charge of the warehouse. One copy will be sent to the consignor and one copy will remain with the exporter.

5.3 The consignor will prepare an application for removal in the Form specified in Annexure-IV (hereinafter referred to as ARE-3) and an invoice (under rule 8 taking into account CT-2 certificate) and follow the procedure specified in Circular No. 579/16/2001-CX dated 26.6.2001 issued under rule 20. The serial number of the corresponding CT-2 shall be mentioned on the top of the each copy of ARE-3. Any nominal variations between the provisional debit indicated in the CT-2 and the actual duty involved in the goods removed as indicated in ARE-3, can be ignored. Immediately on receipt of goods, the provisional

debit shall be converted into actual debit on the basis of the details mentioned in ARE-3.

5.4 The officer-in-charge of the warehouse will countersign application and despatch to the Range Office having jurisdiction over the factory / other approved premise of removal within one working day of receipt of the application. He will make suitable entry in his own record accordingly.

5.5 The assessees shall maintain private record (Warehousing Register) containing information relating to details of ARE-3 and invoice, date of warehousing certificate, description of goods received including marks and numbers, quantity, value, amount of duty, details of operation in the warehouse and new packages and their marks and number, clearance from the warehouse for export (ARE-1 No., Invoice No., quantity, value, duty) and clearance for home consumption. They shall produce this Register to the Central Excise Officers in-charge of the warehouse whenever required."

Except for stating that M/s Alpha Future, has not obtained registration under Rule 9, it is not even the case put forth by the revenue that other conditions as prescribed at para 4 and 5 were not complied with. It is also not the case that the goods were not received in the ware house and cleared from the ware house in the manner as prescribed for export.

4.10 Once it is admitted that the goods cleared by the appellant were received in the warehouse, the circular says in case of any diversion to domestic tariff area, the duty is required to be paid by the warehouse operator. Para 10 of the Circular reads as follows:

10. Diversion of goods for home-consumption :

10.1 Goods can be diverted for home-consumption from the warehouse with the permission of the jurisdictional Assistant/Deputy Commissioner. The clearance shall be effected on invoice prepared under rule 8 on payment of duty, interest and any other charges on TR-6 Challans and after making necessary entries in the export warehouse register maintained by the exporter in the warehouse. Credit will be permitted in the Running Bond Account equivalent to the duty involved in the goods so diverted, which shall not exceed amount of duty

debited on the basis of ARE-3 on which such goods were received in the warehouse. If entire quantity is not diverted, calculation shall be done on pro-rata basis.

10.2 Goods can be diverted for home-consumption even after the clearance from the warehouse on ARE.1. For cancellation of documents, provisions of notification no. 46/2001-CE(NT) dated 26.6.2001 shall be followed. The intimation shall be given to Assistant/Deputy Commissioner having jurisdiction over the warehouse. Credit in Running Bond Account will be permitted in the same manner as mentioned on Para 10.1 above.

10.3 Where the goods are diverted for home-consumption in full or in part the exporter shall be liable to pay interest @24% per annum on the amount of duty payable on such goods from the date of clearance from the factory of production or any other premises approved, till the date of payment of duty and clearance.”

4.11 In view of the above discussions we are not in position to uphold the impugned order of the Commissioner (Appeals).

5.0 The appeal is allowed and the impugned order set aside.

(Order pronounced in the open court)

(Sanjiv Srivastava)
Member (Technical)

(Dr. Suvendu Kumar Pati)
Member (Judicial)

tvu