सत्यमेव जयते

केंद्रीय कर आयुक्त (अपील)

O/O THE COMMISSIONER (APPEALS), CENTRAL TAX,
केंद्रीय उत्पाद शुल्क भवन, 7th Floor, Central Excise Building,
सातवीं मंजिल, पोलिटेकनिक के पास, Near Polytechnic,
आम्बावाडी, अहमदाबाद-380015 Ambavadi, Ahmedabad-380015
☎: 079-26305065 टेलेफैक्स : 079 - 26305136

रजिस्टर डाक ए .डी .द्वारा

क फाइल संख्या (File No.) : **V2(94)112 /Ahd-II/Appeals-II/ 2016-17** /933 to 937
स्थगन आवेदन संख्या(Stay App. No.):

ख अपील आदेश संख्या (Order-In-Appeal No.): **AHM-EXCUS-002-APP- 76-17-18**
दिनांक (Date): **29.08.2017**___जारी करने की तारीख (Date of issue): 22/09/17
श्री उमा शंकर, आयुक्त (अपील-II) द्वारा पारित
Passed by **Shri Uma Shanker** , Commissioner (Appeals)

ग _____ आयुक्त, केंद्रीय उत्पाद शुल्क, (मंडल-V), अहमदाबाद- II, आयुक्तालय द्वारा जारी मूल आदेश सं---------- दिनांक _----------से सृजित
Arising out of Order-In-Original No ._**30/JC/2010/AS**__**Dated: 11/10/10** issued by: Joint Commissioner Central Excise (Div-V), Ahmedabad-II

घ अपीलकर्ता/प्रतिवादी का नाम एवम पता (Name & Address of the Appellant/Respondent)

M/s Aakar Signs & Prints

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील या पुनरीक्षण आवेदन प्रस्तुत कर सकता है |

Any person an aggrieved by this Order-in-Appeal may file an appeal or revision application, as the one may be against such order, to the appropriate authority in the following way:

भारत सरकार का पुनरीक्षण आवेदन :
Revision application to Government of India:

(1) (क) (i) केंद्रीय उत्पाद शुल्क अधिनियम 1994 की धरा अतत नीचे बताए गए मामलों के बारे में पूवोक्त धारा को उप-धारा के प्रथम परंतुक के अंतर्गत पुनरीक्षण आवेदन अधीन सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली-110001 को की जानी चाहिए |

A revision application lies to the Under Secretary, to the Government of India, Revision Application Unit, Ministry of Finance, Department of Revenue, 4th Floor, Jeevan Deep Building, Parliament Street, New Delhi-110001, under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35 ibid:

(ii) यदि माल की हानि के मामले में जब हानि कारखाने से किसी भंडारगार या अन्य कारखाने में या किसी भंडारगार से दूसरे भंडारगार में माल ले जाते हुए मार्ग में, या किसी भंडारगार या भंडार में चाहे वह किसी कारखाने में या किसी भंडारगार में हो माल की प्रकिया के दौरान हुई हो |

In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse

(ख) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामले में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है |

Cont...2

(c) In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.

अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो डयूटी केडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त, अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (नं.2) 1998 धारा 109 द्वारा नियुक्त किए गए हो।

(d) Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under and such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec.109 of the Finance (No.2) Act, 1998.

(1) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए–8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनाँक से तीन मास के भीतर मूल–आदेश एवं अपील आदेश की दो–दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ. का मुख्यशीर्ष के अंतर्गत धारा 35–इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर–6 चालान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

(2) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रूपये या उससे कम हो तो रूपये 200/– फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख से ज्यादा हो तो 1000/– की फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.

सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील:–
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35–बी/35–इ के अंतर्गत:–

Under Section 35B/ 35E of CEA, 1944 an appeal lies to :-

(क) वर्गीकरण मूल्यांकन से संबंधित सभी मामले सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण की विशेष पीठिका वेस्ट ब्लॉक नं. 3. आर. के. पुरम, नई दिल्ली को एवं

(a) the special bench of Custom, Excise & Service Tax Appellate Tribunal of West Block No.2, R.K. Puram, New Delhi-1 in all matters relating to classification valuation and.

(ख) उक्तलिखित परिच्छेद 2 (1) क में बताए अनुसार के अलावा की अपील, अपीलो के मामले में सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में ओ–20, न्यू मैन्टल हास्पिटल कम्पाउण्ड, मेघाणी नगर, अहमदाबाद–380016.

(b) To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at O-20, New Metal Hospital Compound, Meghani Nagar, Ahmedabad : 380 016. in case of appeals other than as mentioned in para-2(i) (a) above.

(2) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 की धारा 6 के अंतर्गत प्रपत्र इ.ए–3 में निर्धारित किए अनुसार अपीलीय न्यायाधिकरणें की गई अपील के विरूद्व अपील किए गए आदेश की चार प्रतियाँ सहित जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग ओर लगाया गया जुर्माना रूपए 5 लाख या उससे कम है वहां रूपए 1000/– फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग ओर लगाया गया जुर्माना रूपए 5 लाख या 50 लाख तक हो तो रूपए 5000/– फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग ओर लगाया गया जुर्माना रूपए 50 लाख या उससे ज्यादा है वहां रूपए 10000/– फीस भेजनी होगी। की फीस सहायक रजिस्टार के नाम से

रेखांकित बैंक ड्राफ्ट के रूप में संबंध की जाये। यह ड्राफ्ट उस स्थान के किसी नामित सार्वजनिक क्षेत्र के बैंक की शाखा का हो जहाँ उक्त न्यायाधिकरण की पीठ स्थित है।

The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 as prescribed under Rule 6 of Central Excise(Appeal) Rules, 2001 and shall be accompanied against (one which at least should be accompanied by a fee of Rs.1,000/-, Rs.5,000/- and Rs.10,000/- where amount of duty / penalty / demand / refund is upto 5 Lac, 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asstt. Registar of a branch of any nominate public sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated.

(3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल ओदश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता हैं।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner not withstanding the fact that the one appeal to the Appellant Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

(4) न्यायालय शुल्क अधिनियम 1970 यथा संशोधित की अनुसूचि–1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूल आदेश यथास्थिति निर्णयंन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर रू.6.50 पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।

One copy of application or O.I.O. as the case may be, and the order of the adjournment authority shall a court fee stamp of Rs.6.50 paise as prescribed under scheduled-I item of the court fee Act, 1975 as amended.

(5) इन ओर संबंधित मामलों को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्याविधि) नियम, 1982 में निहित है।

Attention in invited to the rules covering these and other related matter contended in the Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

(6) सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट), के प्रति अपीलो के मामले में कर्तव्य मांग (Demand) एवं दंड (Penalty) का 10% पूर्व जमा करना अनिवार्य है। हालांकि, अधिकतम पूर्व जमा 10 करोड़ रुपए है ।(Section 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

केन्द्रीय उत्पाद शुल्क और सेवा कर के अंतर्गत, शामिल होगा "कर्तव्य की मांग"(Duty Demanded) -

(i) *(Section)* खंड 11D के तहत निर्धारित राशि;
(ii) लिया गलत सेनवैट क्रेडिट की राशि;
(iii) सेनवैट क्रेडिट नियमों के नियम 6 के तहत देय राशि.

⇨ **यह पूर्व जमा 'लंबित अपील' में पहले पूर्व जमा की तुलना में, अपील' दाखिल करने के लिए पूर्व शर्त बना दिया गया है .**

For an appeal to be filed before the CESTAT, 10% of the Duty & Penalty confirmed by the Appellate Commissioner would have to be pre-deposited. It may be noted that the pre-deposit is a mandatory condition for filing appeal before CESTAT. (Section 35 C (2A) and 35 F of the Central Excise Act, 1944, Section 83 & Section 86 of the Finance Act, 1994)

Under Central Excise and Service Tax, "Duty demanded" shall include:
(i) amount determined under Section 11 D;
(ii) amount of erroneous Cenvat Credit taken;
(iii) amount payable under Rule 6 of the Cenvat Credit Rules.

इस सन्दर्भ में ,इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो माँग किए गए शुल्क के 10% भुगतान पर और जहाँ केवल दण्ड विवादित हो तब दण्ड के 10% भुगतान पर की जा सकती है।

In view of above, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute."

ORDER IN APPEAL

The subject appeal is filed by M/s. Aakar Signs & Prints, 302, Aakar Vision Complex, Panjara Pole Cross Road, Ahmedabad (hereinafter referred to as *'the appellant'*) against the Order in Original No.30/JC/2010/AS dated 11-10-10 (hereinafter referred to as *'the impugned order'*) passed by the Joint Commissioner, Central Excise, Ahmedabad-II (hereinafter referred to as *'the adjudicating authority'*). They are engaged in the manufacture and sale of Glow Sign Boards and Digital Printed Flex etc. they have not taken Central Excise registration.

2. The facts in brief of the case is that, a case was booked on the appellant by the department on 11-3-2008 for clandestine removal of Glow Sign Board, Frontlit Flex, Translite etc. without central Excise Registration and without following the procedure under the CEAct 1944 .Shri Apurva A. Shah, Proprietor of the said unit,stated that he was the Proprietor of the said unit who engaged in the Digital Printing and Manufacture of flex glow sign boards.These Flex Fabrics is known as the medium for exhibiting advertisement and would merit classification under chapter 9405 60 of the CETA, 1985 as a part of the illuminated sign boards ,liable to Excise Duty @ 16% .Frontlit Flex' and Translite' are also merit classified under ch 940560 of the CETA,1985,liable to Excise Duty @ 16% .it appeared that the goods manufactured classifiable under Chapter 9405 'Digital Printed Flex' and 'Backlit Flex', etc. classifiable as 'parts of illumin,Sign Boards' under Ch heading 9405 99 of CETA, 1985. A Show Notice was issued for the period JAN-2009 to MARCH-2009 for demand of Excise duty Rs.793517/- with penalty and interest. same was decided vide the impugned order and confirmed the demand of Rs.261029/- with penalty.,Earlier, SCN was issued for the period 2004-05 to 2008-09,for demand of Excise duty Rs.1,53,63,471/-.The said notice was decided by the Commissioner, Central excise,Ahmedabad-II vide OIO No.17/Commr./MLIM/AHD-11/2009; dated 21-10-2009 confirmed the demand with penalty. The appellant filed appeal against the said order before the Hon'ble CESTAT. Hon'ble CESTAT has remand back the case vide order No. 12144/2014 dated 01-12-2014. The case was decided by the Commissioner, C.EX. Ahmedabad-II vide Order-in-OriginalNo.AHM/EXCUS-002-COMMR-01/15-16 dated 29-04-2015 confirming the demand with penalty. This case was kept in call book. Now, I take up it for decision, in view of identical matter decided by Hon'ble Tribunal Mumbai, Final Order No.A/86436-86437/16/EB DATED 09-3-16 in case of M/S.Tanzeem Screen Arts.

3. The appellant has submitted their written GOA on 14-12.2010 wherein they have stated that;

The statement of Shri Apurva A. Shah was recorded on 30.01.2009, and he has explained the process of obtaining Glow Sign Board. thus, firstly galvanized sheets, mpthilPipes and tube light set and other electrical accessories were sent to a fabrication for fabricating the boxes from the galvanized sheets, then electric work

of fitting of tube lights or other light sources was undertaken by an electrician to whom payments were made by them, thereafter front-facia being a digital printed flex printed by them on their digital printing machine was mounted on metallic board with revets, and then the Glow Sign Board was dispatched to site for installation. That as regards frontlit / backlit flex, that flex was a fabric coated with PVC which was glossy in nature, and inkjet digital printer was used for feeding design from computer to the printer and printed flex was obtained by such digital printing. It is thus clear from clarifications made by Shri Apurva Shah that frontlit / backlit flex were nothing but a printed flex fabrics obtained by digital computerized printing.

that such processes do not compose "manufacture" of excisable goods in the nature of Glow Sign Boards, and not classifiable under Heading 940560 and Flex fabrics printing were not classifiable under Sub-Heading 9405990 for levying the Excise duty. When Explanatory Notes in Section XX States That, Group of heading 94.05 of HSN are considered, it becomes clear that illuminated signs, illuminated name plates etc are considered to be a permanently fixed light sources and parts there of not else specified or included. This type of advertising board would not merit classification under Heading 94.05 because it was not having a permanently fixed light source.

Further, they relied upon the following cases: 1. Swastic Products, Baroda V. Supdt.Of C.Ex.-1980 (006) ELT 0164 (guj) 2. J.G.GLASS IND. Ltd.-1998(97) ELT 005(SC) 3. Tanzeem Screen Arts 2001[131] ELT 0656[T] 4.Sign And Display Systems 2006 (206) ELT 823 (T]) 5.MELTEX INDIA P. LTD. 2004 (165) ELT 129 (SC)

That it is clear from Explanatory notes of Heading 9405 and also the above referred decisions of the Appellate Tribunal that Glow Sign Boards do not merit classification under S.H. 940560. That products like backlit flex, frontlit flex and translite are products of printing industry classifiable under heading 49.01 of the Tariff and they are chargeable to nil rate of duty. That the demand of duty is illegal, that the imposition of penalty under Rule 25 of the CER 2002 to be vacated as there is no justification for penalty .

4. Personal hearing was given to the appellant on 16.03.2017. Shri Apurva A. Shah, Proprietor appeared before me and reiterated the contents of their written GOA. He submitted additional submission on dated 25-07-2017 and submitted copy of OIO dated 29-4-15. He requested to consider the submission made in their grounds of appeal .I have carefully gone through all case records placed before me in the form of Show Cause Notice, the impugned order and written submissions made in GOA. I find that, The dispute is limited to whether these items fall under CSH 4901 or in 9405 of the schedule to Central Excise Tariff Act, 1985 (CETA, 1985). I find that in the instant case, it is beyond dispute that the appellant is engaged in the manufacture and clearance of Digital Printed Frontlit Flex, etc and Glow sign Board. I find from the case records that, a show cause notice 20-1-2010 was issued for demand of Excise duty Rs.793517/- with interest and penalty. Same

was decided vide above order and confirmed the demand. I find that, in the case of classic Stripes Pvt Ltd. reported at 2001 (131) ELT 281, the Tribunal held as under:-

"Signs - Printed trade advertising material - Goods not considered to be parts of illuminated signs but are temporarily fixed in such signs to be replaced by another sheet - Signs complete by themselves and to be regarded as products of printing industry Classification under Heading 49.01 of Central Excise Tariff Act, 1985 appropriate. - The goods may not be considered to be parts of illuminated signs. They are temporarily fixed in these signs to be replaced by another sheet. The signs are complete by themselves. Even if it is assumed that goods are part of the illuminated signs, they would not be classifiable under the heading for parts of such signs for the reason that they are specified elsewhere i.e. as products of the printing industry. The goods are therefore classifiable of Heading 49.01."

Department had preferred an appeal against the said order in Hon'ble Supreme court vide Civil Appeal No. D7090 of 2001 dated 12-07-2001 and Hon'ble Supreme Court has decided the Civil Appeal No.4228-4229/2001 dated 09.03.2015 against the department. Hon'ble Supreme Court observed that ;

'goods in question fall in under heading 49.01 as per the respondent whereas, the department sought to classify it under the heading 94.05. For the purpose of Chapter 49, 'printed' also means reproduced also means reproduced by means of a duplicating machine, produced under the control of a computer, embossed, photographed, photo-copied, thermocopied or typewritten. Heading 94.05 covers Lamps and lighting fittings including' search-lights and spotlights and parts thereof, not elsewhere specified or inAlqted; illuminated signs, illuminated name-plates and the like, having a permanently/fixed light source, and parts thereof not elsewhere specified or included. The Hon'ble `Supreme Court observed that it is abundantly clear from the aforesaid details that the process of manufacturing undertaken by the respondent i.e. printing is done by using thermo copied machine and therefore, it would fall under the head 49.01. BY no stretch of imagination, such goods can be classified under the head 94.05,as no lamps and lighting fittings or search lights or spotlights are used by the respondent for the purpose of illuminated signs or illuminated name plates and sign boards: We, therefore, agree with the finding of the Tribunal. On the facts of these cases,,we find no merit in these appeals and the same are dismissed.

5. I find that, In the case of Keshoram Surindernath (Phcto-Meg) Vs CCE Bangalore-I reported at 2014-TIOL-955-CESTAT-BANG, Hon'ble CESTAT has held that:-

"Illuminated sign boards - Liability - Unless an item is part of illuminated signboard, the same cannot be classified under Chapter 9405 and liable to tax - Appellant's claim that products like vinyl cut graphics, vinyl self-adhesive stickers and translates are not liable to excise duty is sustainable as these are the products that fall under printing industry ' since the processes undertaken are covered by the

Chapter Note 2 of Chapter 49 which is exempted from duty - But as signage on metal base, illuminated glow signs and other materials are parts of signboards, demand on the items is upheld - As appellants have not taken registration and have not paid duty, penalty was rightly imposed - Appeal disposed of."

6. After having discussed the decisions cited by the Tribunal, I now proceed to examine the classification of goods manufactured by the appellant and their duty liability in view of aforesaid decisions of Hon'ble Tribunals as well as recent judgment of Hon'ble Supreme Court of India. I find that, the appellant is engaged in manufacture of Digital Printed Frontlit Flex, etc, and Glow sign Boards and the issue to be determined is the classification of the aforesaid goods. Dealing with the classification of "Glow Sign Boards". the appellant has contended that there was no permanently fixed light source in the Glow Sign Boards, but electrical connections and light fittings were installed in such boards separately and Heading 94.05 of the Tariff covers lamps and lighting fittings, and also illuminated signs, illuminated name plates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included. Whereas Sub Heading 94059900 covers "parts-other". S.H. 940560 would cover those illuminated signs, illuminated name plates and the like which have a permanently fixed light source. I Find That, the broad description of heading 94.05 under HSN,also refers to the use any source of light ,Electrical Lamps and lighting fittings of this heading may be equipped with lamp-holders, switches, flex etc. or, as in the' case of florescent strips fixtures, a starter or ballast requirement of "having a permanently fixed light source" for the goods like illuminated signs, illuminated name/plates and the like. The submission of the appellant is that 9405 is to be read along with its Explanatory Note which states that the heading excludes "signs, name plates and the like, not illuminated or illuminated by a light not permanently fixed" that the Glow sign Boards in question have no light source of their own. They are dependent on external power supply for the purpose of illumination.

7. I find that, the Proprietor of the unit and representative of the unit have confirmed that Glow Sign Board manufactured and cleared by them was illuminated sign Boards and have a permanently fixed light source. Shri Apurva A. Shah, Proprietor of the said unit had explained the process of obtaining Glow Sign Board .In view of above position, I find that in this case ,the Glow Sign Boards manufactured by the appellant has permanent light source mounted in the box when delivered to the client by them. Therefore, it is proved beyond doubt that Illuminated Sign Boards manufactured and cleared by the appellant have permanent fixed light source, consequently, the same is correctly classifiable under ChSH 940560 of the Central Excise Tariff which attracts appropriate rate of duty .

8. Now, I take up the classification of other goods manufactured and cleared by the appellant, Flex and Digital Printed Output on Translite. The appellant has submitted in their GOA and also Shri Apurva Shah has explained in his statement as regards frontlit/backlit flex, that frontlit/backlit flex were nothing but a

printed flex fabrics obtained by digital computerized printing. I also find that the appellant has relied on the decisions in the case of Classic Stripes Pvt. Ltd. It is clear that backlit, frontlit and translite are products of printing industry most appropriately classifiable under Heading 49.11 and they are chargeable to nil rate of duty.

9. In view of the above, the Glow sign Board is correctly classifiable under Chapter 940560 of the Central Excise tariff and the appellant is liable to pay the Excise Duty Rs. 261029/-. I rely on the case law of 1. Hon'ble Tribunal Banglore in the case of Srikumar Agencies, Bangalore vide final order no. 659 to 683/2011 dated 11-10-2011.and 2. Hon'ble CESTAT's decision final order no.A/86436-86437/16/EB dated 09-3-16 in case of M/S.Tanzeem Screen Arts.

10. Further, I find that the appellant have contravened the provisions of rule 4, 5 , 6 , 8, 9, 10 and Rule 11 of CER 2002 in as much as they failed to issue valid invoice ,in respect of the said goods cleared from their factory; the said goods were cleared without payment of duty and therefore, are liable for confiscation under Rule 25 of Central Excise Rules,2002. However, the said goods are not available for confiscation. With respect to the imposition of penalty on the appellant, I find that in the instant case, the appellant has not obtained Central Excise registration for the manufacture of said excisable goods. Therefore, I hold that the penalty imposed is just and legal.

11. In view of the foregoing discussion and findings, I partially modify the impugned order with regard to classification of goods and disallow the appeal filed by appellant.

12. अपीलकर्ता द्वारा दर्ज की गई अपीलो का निपटारा उपरोक्त तरीके से किया जाता है।

12. The appeal filed by the appellant stand disposed off in above terms.

[उमा शंकर]
आयुक्त (अपील्स]
29.08.2017

Attested

[K.K.Parmar)
Superintendent (Appeals)
Central tax, Ahmedabad.

By Regd. Post A. D

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Copy to :

1. The Chief Commissioner, Central Excise, Ahmedabad.
2. The Commissioner, Central Excise, Ahmedabad-II.
3. The Asstt. Commissioner, Central Excise, Divi-V, Ahmedabad-II.
4. The Asstt. Commissioner (Systems), Central Excise, Ahmedabad-II.
5. Guard file.
6. PA file.