

FAX : 011-26108426

REGISTERED / AD

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

Dated: 12/01/2017

To
Appellant as per address in table below
Respondent as per address in table below

Interim Order No. IO/1/2017-[CR] dated : 09/01/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.

Technical Officer (CENTRAL REGISTRY)

Dairy No	Name and Address of Appellant
1	522452016 ASIAN NATURAL RESOURCES INDIA LTD BCC HOUSE, 8/5, MANORAMAGANJ, NAVRATAN BAGH MAIN ROAD, INDORE, M.P. - 452011
2	522452016 Commissioner of CUSTOMS Excise and Service Tax- INDORE P.B.NO.10...MANIK BAGH ROAD, MANIK BAGH PALACE, NDORE, MADHYA PRADESH - 452001

Copy To
3 Advocate(s) / Consultant(s):

Arvind Singh Chawla, C. A
4th Flooe BCM CITY, NAVLAKHA
SQUARE, NEAR PETROL PUMP,
INDORE, MADHYA PRADESH

4 Bar Association, CESTAT, Delhi

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

6 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

7 Director Publications, Customs, Excise. I.P. Estate, Delhi

8 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

9 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad - 38

10 MS Knowlegde Processing Pvt. Ltd.(Taxmanagementindia.com),FF-19, 1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

11 TaxIndiaOnline.com Pvt. Ltd., B-XI/8183, Vasant Kunj, New Delhi - 110070

12 Mann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

13 The ICFAI society , 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

14 C.D.R. 15 Office Copy 16 Guard File

Technical Officer (CENTRAL REGISTRY)

IN THE CUSPTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI,
PRINCIPAL BENCH NEW DELHI

Date of Hearing/Decision: 09.01.2017

Misc. Application No. ST/^{misc} /51786/2016-DB
(Dy. No. 52245/2016)

Asian Natural Resources India Limited .. Appellants

Vs.

CCE & ST, Indore .. Respondent

Appearance:

Rep. by Shri Ashutosh Upadhyay, Advocate for the Applicant.
Rep. by Shri R.K. Mishra, DR for the Respondent.

**Coram: Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)**



Interim Order No. 01 /2017-DB


Per Justice Dr. Satish Chandra

Shri Ashutosh Upadhyay, Ld. Advocate submits that after the funds were released by the Hon'ble Bombay High Court, as per order dated 29.04.2015, the appellant had made the pre-deposit of Rs. 26,81,700/- on 17.11.2016. Thus, the appellant has satisfied the condition of pre-deposit. He prays for restoration of the appeal dismissed as non-maintainable.

2. In view of the above, the application for restoration of appeal is allowed and appeal is restored to its original number. Registry is directed to list the appeal for final hearing on 01.02.2017.

3. Party may submit the written note.

[Order dictated & pronounced in open court]


(V. Padmanabhan)
Member (Technical)


(Justice (Dr.) Satish Chandra)
President

आचार्य श्री. (Dr.) Satish Chandra
तकनीकी अधिकारी/Technician
सीमांकित अपावशुल्क एवं
अपील अधिकरण / CEC - AT,
परिचयी खण्ड - 2 / West Block No. 2
आर.के. पुरम / R.K. Puram
दिल्ली / Delhi

FAX : 011-26108426

REGISTERED / AD


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

Dated: 12/01/2017

To
Appellant as per address in table below
Respondent as per address in table below

Interim Order No. IO/2/2017-ICRI dated : 09/01/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 129-A(4) of the Customs Act, 1962.


Technical Officer (CENTRAL REGISTRY)

	Dairy No	Name and Address of Appellant
1	524102016	PARMESHWAR PARSAD R/O P O SHEOGANJ, BHOJPUR ARA BIHAR, - 802158
	Name and Address of Respondent	
2	524102016	COMMISSIONER OF CUSTOMS NEW DELHI (PREV) PREVENTIVE CUSTOM HOUSE, NEAR IGI AIRPORT, NEW DELHI,

Copy To
3 Advocate(s) / Consultant(s):

Pradeep Jain, (Advocate)
370-371/2, FIRST FLOOR, SAHI
HOSPITAL ROAD, JANGPURA,
NEW DELHI - 11014

4 Bar Association, CESTAT, Delhi

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

6 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

7 Director Publications, Customs, Excise. I.P. Estate, Delhi

8 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

9 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad - 38

10 MS Knowlegde Processing Pvt. Ltd.(Taxmanagementindia.com),FF-19, 1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

11 TaxIndiaOnline.com Pvt. Ltd., B-XI/8183, Vasant Kunj, New Delhi - 110070

12 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

13 The ICFAI society , 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

14 C.D.R. 15 Office Copy 16 Guard File


Technical Officer (CENTRAL REGISTRY)

12/01

IN THE CUSPTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI,
PRINCIPAL BENCH NEW DELHI

Date of Hearing/Decision: 09.01.2017

DIARY No. 52410/2016

Parmeshwar Prasad

.. Appellants

vs.

CC, Delhi

.. Respondent

Appearance:

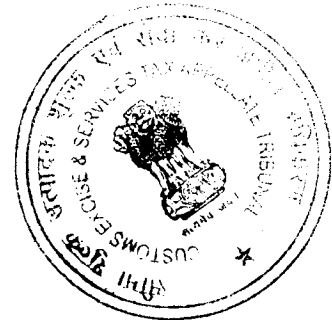
Rep. by Shri Subhankar Jha, Advocate for the Appellant.

Rep. by Shri R.K. Mishra, DR for the Respondent.

**Coram: Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)**

10/02/2017

Per Justice Dr. Satish Chandra



Shri Subhankar Jha, Ld. Advocate submits that the appellant had filed writ petition No. 11491/2015 before the Hon'ble Delhi High Court. The Hon'ble High Court on 26.04.2016, issued direction to the department to provide copy of the impugned order within 10 days. Ld. Counsel submits that as per the Hon'ble High Court directions, the department had prepared the order dated 08.12.2015 and the same was received by them on 12.05.2016. He submits that, though the order is dated 08.12.2015 but it was served to them on 12.05.2016 and the appeal was filed on 08.08.2016. Thus, the appeal is well within the time of three months and there is no delay.

2. We are satisfied with the above submission. The defect is removed and the appeal is admitted. Registry is directed to list the appeal in due course.

3. Party may submit written notes.

[Order dictated & pronounced in open court]

(Signature)
**(V. Padmanabhan)
Member (Technical)**

(Signature)
**(Justice (Dr.) Satish Chandra)
President**

प्रमाणित प्रतिलिपि
सकनीकी अधिकारी/Technical Officer
सीमाशुल्क उत्पादशुल्क एवं सेवाशुल्क
अपील अधिकरण / C.E.S.T.A. (A)
परिचयी खण्ड-2 / West Block No.-2
आर.के. पुरम, / R.K. Puram
नई दिल्ली / New Delhi-110 066

FAX : 011-26108426

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

Dated: 01/02/2017

To

Appellant as per address in table below

Respondent as per address in table below

Interim Order No. IO/3/2017-[CR] dated : 23/01/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 01(5) of the Finance Act, 1994 relating to Service Tax.

Technical Officer (CENTRAL REGISTRY)

Dairy No	Name and Address of Appellant
1	530112016 TAISEI CORPORATION DELHI PROJECT OFFICE, 414, DEEPSHIKHA BUILDING 8, RAJENDRA PLACE, NEW DELHI - 110008
Name and Address of Respondent	
2	530112016 COMMISSIONER OF CUSTOMS SERVICE TAX-DELHI - I GATE NO.2, C R BUILDING...I P ESTATE, DELHI - 110109

Copy To

3 Advocate(s) / Consultant(s):

P. K. Sahu
D-247, IInd Floor, Defence
colony, New Delhi,

4 Bar Association, CESTAT, Delhi

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

6 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

7 Director Publications, Customs, Excise. I.P. Estate, Delhi

8 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

9 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad - 38

10 MS Knowlegde Processing Pvt. Ltd.(Taxmanagementindia.com),FF-19, 1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

11 TaxIndiaOnline.com Pvt. Ltd., B-XI/8183, Vasant Kunj, New Delhi - 110070

12 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

13 The ICAFI society , 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

14 C.D.R. 15 Office Copy 16 Guard File

Technical Officer (CENTRAL REGISTRY)

IN THE CUSPTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW
DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing/Decision: 23.01.2017

DIARY No. 53011/2016

Taisei Corporation

.. Appellants

vs.

Commissioner of Central Excise & S.T., Delhi

.. Respondent



Appearance:

Rep. by Shri P.K. Sahu, Advocate for the Appellant.

Rep. by Shri Amresh Jain, DR for the Respondent.

Interim order No. 03/2017-CH

**Coram: Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)**

Per Justice Dr. Satish Chandra

Shri P.K. Sahu, Id. Advocate submits that the hearing in the instant case was taken place before the Commissioner in the year 2011 and he had represented the case. It is his submission that in the year 2009, the appellant had already informed the department about the change of the address but the department has sent the notices at the old address, which were returned back with postal remarks as "Left". He submits that there was delay on the part of department. He has drawn our attention to the letter where intimation pertaining to change of address was written and the same was duly acknowledged by the department.

2. On the other hand, Shri Amresh Jain, Id. DR submitted that it is the pious duty of the Id. Counsel to know the fate of the adjudication

8

proceedings. Even before the Tribunal they have filed the appeal without certified copy of the impugned order and later this defect was removed.

3. In the above scenario, we direct the jurisdictional Commissioner to submit a detailed report on affidavit.

4. The matter is adjourned to 16.02.2017.

[Order dictated & pronounced in open court]

- Sd -
(V. Padmanabhan)
Technical Member

- Sd -
(Justice Dr. Satish Chandra)
President

प्रमाणित प्रति / Certified True Copy

तकनीकी अधिकारी/Technical Officer
सीमाशुल्क उत्पादशुल्क एवं सेवा कर
अपील अधिकरण / (C.E.S.T.A.T.)
पश्चिमी खण्ड-2 / West Block No-2
आर.के. पुरम. / R.K. Puram
नई दिल्ली / New Delhi-110 066

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

To
Appellant as per address in table below
Respondent as per address in table below

Dated: 13/02/2017

Interim Order No. IO/4/2017-[CR] dated : 07/02/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 01(5) of the Finance Act, 1994 relating to Service Tax .

Technical Officer (CENTRAL REGISTRY)

Dairy No	Name and Address of Appellant
1 530392016	INCREDIBLE UNIQUE BUILDCON PVT LTD 812/G1-15, SAMTEL ZONE, PHASE-III BHIWADI, ALWAR
Name and Address of Respondent	
2 530392016	COMMISSIONER OF CUSTOMS, EXCISE & SERVICE TAX-ALWAR COMMISSIONER OF CUSTOMS, EXCISE & SERVICE TAX A BLOCK SURYA NAGAR, ALWAR JAIPUR, RAJESHTAN - 301001

Copy To
3 Advocate(s) / Consultant(s):

Bipin Garg
B-1/1289, A - Vasant Kunj,
NEW DELHI-110070

- 4 Bar Association, CESTAT, Delhi
- 5 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp. ICICI Bank of Defence colony New Delhi-3
- 6 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17
- 7 Director Publications, Customs, Excise. I.P. Estate, Delhi
- 8 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
- 9 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad - 38
- 10 MS Knowlegde Processing Pvt. Ltd.(Taxmanagementindia.com),FF-19, 1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032
- 11 TaxIndiaOnline.com Pvt. Ltd., B-XI/8183, Vasant Kunj, New Delhi - 110070
- 12 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005
- 13 The ICAFI society , 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082
- 14 C.D.R. 15 Office Copy 16 Guard File

Technical Officer (CENTRAL REGISTRY)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. 1

Date of hearing/decision: 07.02.2017

Dy. No. ST 530392016

M/s Incredible Unique Buildcon Pvt. Limited Appellant

Vs.

CCE&ST, Alwar Respondent

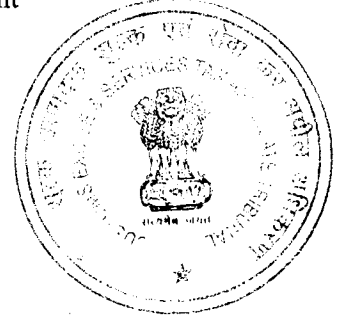
Appearance:

Shri Bipin Garg, Advocate for the appellant
Sh. Sanjay Jain, AR for the Respondent

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. Ashok K. Arya, Member (Technical)

Per: Justice (Dr.) Satish Chandra



The appellant has assessed the order dated 22.12.2016 passed by the Registrar of the Tribunal where it is alleged that the pre-deposit @ 7.5% of the total demand has not been made out, so, he treated the appeal as defective. The appellant has assailed it.

2. Shri Bipin Garg, Id. Counsel for the appellant submits that the entire dispute arose after the audit report dated 17.04.2013 where it is clearly mentioned that the appellant is not registered in the 'Works Contract Service'. He submits that the appellant was registered under the heading 'Commercial and Industrial Construction Service'. The total service tax payable is Rs.3,75,46,978/- and out of it the appellant has already paid Rs. 1,22,74,133/-. He submits that the entire service tax demand is in dispute in the present appeal. The pre-deposit @ 7.5% will come below the amount already deposited by the

appellant. Hence, there is no defect in the present appeal and there is no requirement of the pre-deposit. However, for the disputed period, there is a demand of Rs. 2.54 lakh.

3. On the other hand, ld. AR Sh. Sanjay Jain submits that as per Section 35F of the Central Excise Act, 1944, pre-deposit @ 7.5% of the disputed amount is required. In the instant case, as per the show cause notice, the demand is of Rs. 2.5 crore and the same was confirmed by the impugned order. So, he submits that the pre-deposit is required on this amount @ 7.5%.

4. After considering the rival submissions and on perusal of records, it appears that the total service tax demand, may be under different head, is Rs. 3,75,46,978/- as per the order mentioned by the Auditor dated 17.04.2013. The appellant has already paid Rs. 1,22,74,133/-. This is more than 7.5% of the total demand. The same can be set-off / adjusted in another head whenever the matter ^{is} ~~is~~ decided on merit. However, to meet the end of justice, we direct the appellant to further deposit Rs. 8,00,000/- (Rupees eight lakhs only) towards pre-deposit within a period of ten (10) days.

5. In view of above, the defect is removed, if any. Hence, the appeal is admitted. Registry is directed to list the matter for final hearing on 23.03.2017 after providing regular appeal number.

(Dictated and pronounced in the open Court).

(Justice (Dr.) Satish Chandra)
President

(Ashok K. Arya)
Member (Technical)

प्रमाणित प्रति / Certified True Copy

तकनीकी अधिकारी/Technical Officer
सीमाशुल्क अध्यायशुल्क एवं सहायक
अपील अधिकरण / C.E.S.I.
पश्चिमी खण्ड 2 / West Block - 2
आर.के. पुरम / R.K. Puram
नई दिल्ली / New Delhi - 110 066

FAX : 011-26108426

REGISTERED / AD

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

Dated: 12/09/2017

To

Appellant as per address in table below
Respondent as per address in table below

Interim Order No. IO/5/2017-ICR dated : 08/09/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the Central Excise and Salt Act, 1944.

Technical Officer (CENTRAL REGISTRY)

Dairy No Name and Address of Appellant
1 502752017 **ULTRATECH CEMENT LTD**
(FORMERLY KNOWN AS GRASIM CEMENT), TEHSIL
SIMGA, VILLAGE- RAWAN, RAIPUR, C.G.

Name and Address of Respondent
2 502752017 **Commissioner of Central Excise and Service Tax-Raipur**
CENTRAL EXCISE BUILDING, DHAMTARI ROAD,
TIKRAPARA, RAIPUR, CHHATTISGARH - 492001

Copy To

3 Advocate(s) / Consultant(s):

LAKSHMIKUMARAN & SRIDHARAN, ATTORNEYS
5 LINK ROAD JANGPURA EXTENSION, NEW DELHI -
110014

4 Bar Association, CESTAT, Delhi

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

6 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

7 Director Publications, Customs, Excise, I.P. Estate, Delhi

8 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

9 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad - 38

10 MS Knowledge Processing Pvt. Ltd.(Taxmanagementindia.com),FF-19, 1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

11 TaxIndiaOnline.com Pvt. Ltd., B-XI/8183, Vasant Kunj, New Delhi - 110070

12 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

13 The ICFAI society , 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

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Technical Officer (CENTRAL REGISTRY)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
NEW DELHI, PRINCIPAL BENCH NEW DELHI

Date of Hearing: 11.05.2017

Date of Decision: 08.09.2017

Dy. No.50275/2017

M/s.Ultratech Cement Ltd.
(formerly Grasim Cement)

Appellants

Vs.

CCE & ST, Raipur

Respondent

Appearance:

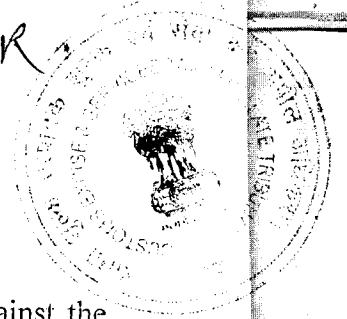
Rep. by Shri Hemant Bajaj, Advocate for the appellant.
Rep. by Shri M.R. Sharma, DR for the respondent.

Interim order No 5/2017-CR

Coram: Hon'ble Shri S. K. Mohanty, Member (Judicial)
Hon'ble Shri V. Padmanabhan, Member (Technical)

Per S.K. Mohanty:

Brief facts of the case are that the applicant had filed appeal against the order dated 14.11.2007 passed by the Commissioner, Central Excise and Customs (Appeals), Raipur before the Tribunal on 7.2.2017. Since there was delay of more than 9 years in filing the appeal, the Technical Officer of the Registry issued the defect memo for filing COD application. The matter was listed before the registrar, who vide misc. order dated 28.02.2017 has stated that the defect has not been removed by the applicant and accordingly, opportunity was granted to the applicant to remove the defects by 24.03.2017. Pursuant to the said misc. order dated 28.02.2017, the applicant vide its communication dated 23.03.2017 has informed that the order-in-appeal dated 14.11.2007 was received for the first time by it on 11.11.2016 and the appeal filed on 7.2.2017 before the Tribunal is within



the statutory time limit and, therefore, there was no need for filing any COD application. The applicant has also filed the affidavit sworn by the authorized officer of the applicant company. Thereafter, the matter was listed for hearing before the Bench on 11.05.2017.

2. Ld. Advocate appearing for the applicant submitted that the order-in-appeal dated 14.11.2007 was forwarded by the Department on 11.11.2016 and considering such date as the date of receipt of the order-in-appeal, the present appeal was filed within the stipulated time limit. He further submitted that the order has not been communicated in the manner prescribed under Section 37 (C) of the Central Excise Act, 1944 and thus, the date of communication of the order on 11.11.2016 should be construed as the date of receipt of such order. In this context, the ld. Advocate has relied on the judgement of Hon'ble High Courts delivered in the case of *Amidev Agro Care Pvt. Ltd. - 2012(279) ELT 353 (Bombay, Premier Garment Processing - 2015(39)STR 812 (Mad.)*, and *CCE Vs. Best Dyeing -2011 (271) ELT 518 (P&H.)*

3. On the other hand, ld. DR appearing for the Revenue submitted that the appeal filed by the applicant beyond the period of 9 years should not be overlooked and deserves no condonation. He also referred to the impugned order to show that the Dy. General Manager (Finance) of the applicant company appeared for personal hearing before the Commissioner (Appeals) on 30.10.2007. Thus, it is apparent that the fact of passing of the impugned order by the Commissioner (Appeals) appears to be known to the applicant before hand and accordingly, the appeal should have been filed within the stipulated time from the receipt of such order. He also submitted that the averments in the affidavit of the Vice President

(Finance) is not correct and the same cannot be taken into cognizance for deciding the present issue.

4. Heard both the sides and examined the case records.

5. It is an admitted fact on record that the impugned order was communicated to the applicant through speed post. Section 37(C) *ibid* provides the manner of issuance of notice/order, etc. passed by the department officers. The said statutory provision mandates that the order should be sent through "Registered Post with acknowledgment due". As per provisions of Section 35 (C) *ibid*, 'speed post' is not the prescribed mode of sending of the decision, order, etc. Considering the provisions of Section 35(C) *ibid*, the Hon'ble High Court in the above referred cases have held that, "the method of serving of order by speed post is not the one contemplated by Section 35 (C) of the Act, which requires communication of the order by registered post with acknowledgement due". Thus, in view of the settled position of law, since the impugned order has not been communicated in the manner prescribed in statute, the same should not be construed as proper communication and in absence of proper substantiation by Revenue regarding the date of receipt of the impugned order as claimed by the applicant, should be considered as the appropriate date for the purpose of computation of the limitation period. Further, we also find that even if the impugned order was sent by the office of the Commissioner (Appeals) through speed post, but there is no acknowledgment due or any other documents to show that the same was received by the applicant within the reasonable time from the date of dispatch of the order. Thus, on this ground also, the interest of justice demands that 11.11.2016 should be considered as the date of communication of the impugned order and since the

appeal was filed before the Tribunal on 7.2.2017, the same is within the stipulated time as prescribed in Section 35 (B) ibid.

6. In view of the above, we do not find any delay in filing of appeal before the Tribunal. Thus, there was no scope or occasion on the part of the applicant to file any COD application as insisted by the Registrar in the misc. order dated 28.02.2017. Accordingly, the Registry is directed to accept the appeal papers and assign the appeal number to the appeal filed by the applicant. The appeal to come up for hearing in due course of time.

[pronounced on.....08.09.2017.....]

Sd/-
(S.K. MOHANTY)
MEMBER (JUDICIAL)

Sd/-
(V. Padmanabhan)
Member (Technical)

Ckp.

प्रमाणित प्रति / Certified True Copy

15/09
तकनीकी अधिकारी/Technical Officer
सीमाशुल्क उत्पादशुल्क एवं सेवा
अपील अधिकरण / C.E.S.T.A.T.
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