REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
OLD RED BUILDING, 38,M.G.Marg,CIVIL LINES, ALLAHABAD

Dated: 28/10/2015

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/ 70054/2015- dated 20/10/2015

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.**

28-10-15
Asstt. Registrar

Application	Appeal	Name and Address of Appellant
	C/51173/2015	JINDAL DHAN KUTAI UDYOG MAIN SURAJPUR ROAD GREATER NOIDA, G B NAGAR UP

Name and Address of Respondent	CCE GHAZIABAD CGO COMPLEX KAMLA NEHRU NAGAR, GHAZIABAD.(UP))

Other Appellants and Respondents as per Annexure

Copy To

3Advocate(s) / Consultant(s): SH RAJESH CHIBBER,ADV
FA-9, NEW KAVI NAGAR
GHAZIABAD(UP)..

4 Bar Association, CESTAT, Delhi
5 Director Publications, Customs, Excise, I.P. Estate, Delhi
6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, 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, Satellite Road, Ahmedabad-15
10 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
11 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi -- 110070

12 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

13 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082
14 C.D.R. 15 Office Copy 16 Guard File

Asstt. Registrar
Regional Bench, Allahabad

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

Cus. Appeal No.51173/15

Arising out of OIA No.GZB/EXCUS/000/APP/283/2014-15 dated 23.12.2014 passed by Commissioner of Customs, Central Excise & S. Tax (Appeals), Noida

For approval and signature:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? :
2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? :
3. Whether His Lordship wishes to see the fair copy of the Order? :
4. Whether Order is to be circulated to the Departmental Authorities? :

AA

M/s Jindal Dhan Kutal Udyog ...APPELLANT(S)

VERSUS

Commissioner of Central Excise, Ghaziabad RESPONDENT (S)

APPEARANCE

Shri Rajesh Chibber, Adv. for the Appellant (s)
Shri A. K. Singh, Addl.Commr. (A.R.) for the Department

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

DATE OF HEARING & PRONOUNCEMENT : 20. 10. 2015

FO ORDER NO. 70056/2015

Per Mr. Anil Choudhary :

The Appellant, M/s Jindal Dhan Kutai Udyog, is in Appeal against Order-in-Appeal No. GZB/EXCUS/000/APP/283/2014-15 dated 23.12.2014 passed by Commissioner of Customs, Central Excise & S. Tax (Appeals), Noida, by which the appeal has been dismissed on the ground of limitation.

2. Heard the parties.

3. It is observed that this is second round of litigation. In the first round of litigation before this Tribunal in Appeal No.58924/2013-Cus vide Final Order No.50565/2014 dated 31.01.2014, this Tribunal observed that although there is an error on the part of the appellant in mentioning the date of receipt of the order-in-original and from the actual date of receipt of order-in-original, the appeal was filed within the condonable period and the ld.Commissioner (Appeals) should have considered to condone the delay by providing an opportunity to the appellant, which was admittedly not given. Accordingly, the Tribunal remanded the matter to the ld.Commissioner (Appeals) to decide the COD application to be filed by the appellant and thereafter, decide the matter on merit. Vide the impugned order, the ld.Commissioner (Appeals) rejected the appeal on the ground of delay observing that the appellants have filed a condonation application along with the written submission on 04.12.2014, but on finding the error on the part of the appellant as callous, he dismissed the appeal by rejecting the COD application.

Am

4. Having considered the rival contention, I find that no case of deliberate or contumacious conduct have been found by the ld.Commissioner (Appeals). Further, the cogent explanation given by the appellant i.e. there was clerical error in mentioning the date of communication on the appeal memorandum, which have not been found to be wrong. In view of this, I condone the delay in filing the appeal before the ld.Commissioner (Appeals) and remand the matter for decision on merits. The ld.Commissioner (Appeals) is directed to disposal of the appeal on merit within a period of 90 days from the date of receipt of a copy of this order. The appellant is also directed to appear before the ld.Commissioner (Appeals) seeking an opportunity hearing on merit within a period of 30 days from the date of receipt of a copy of this order.

(Dictated and pronounced in the open Court)

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

mm

प्रमाणित प्रति / Certified True Copy
03.11.17
Asstt. Registrar
38, M. G. MARG, ALLAHABAD-211001