

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38, MG Marg Civil Lines, Old Red Building, Allahabad-211001
Regional Branch, Allahabad

Dated: 05/12/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71088/2016-EX[DB] dated 28/11/2016

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.


 Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/CROSS/34/2009 E/2315/2008	CCE KANPUR 117/7, SARVODAYA NAGAR, KANPUR 208005.
		Name and Address of Respondent
2		GAIL (INDIA) LTD. PATA, AURAIYA, AGRA.,,

Copy To

3 Advocate(s) / Consultant(s):

V. Lakshmi Kumaran, ALD
 3/1A/3 OPP AUTO SALES, COLVIN
 ROAD, LOHIA MARG ALLAHABAD-
 211001

4 Bar Association, CESTAT, Allahabad

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

10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

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

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

13 M/S Knowledge Processing Pvt. Ltd.(taxmanagementindia.com), FF-19, 1st Floor, Cross River Mall, CBD Ground, Near Karkardooma Court, Delhi-110032

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


 Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

E/CROSS/34/2009
APPEAL No.E/2315/2008-EX[DB]

(Arising out of Order-in-Original No. 07/Ayukt/MP/2008 dated 04/08/2008
passed by Commissioner of Central Excise & Customs, Kanpur)

Commissioner of Central Excise, Kanpur

Appellant

Vs.

Gail (India) Ltd.

Respondent

Appearance:

Shri T.K. Sikdar, Assistant Commissioner (AR)
Shri Atul Gupta, Advocate,

for Appellant
for Respondent

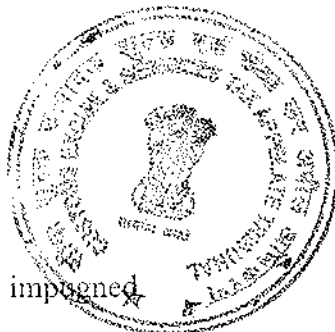
CORAM:

Hon'ble Shri Justice Dr. Satish Chandra, President
Hon'ble Mr. Anil G. Shaktkarwar, Member (Technical)

Date of Hearing : 28/11/2016
Date of Decision : 28/11/2016

Final ORDER NO.....71000/2016

Per: Dr. Satish Chandra



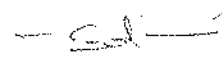
The present appeal is filed by Revenue against the impugned
Order-in-Original No. 07/Ayukt/MP/2008 Dated 04/08/2008 passed
by the Commissioner of Central Excise, Kanpur.

2. During the course of argument Learned A.R. Shri T.K. Sikdar
for the Department relied on the show cause notice. He submits that
the benefit gained by the impugned order is not justified in the law.
(On the other hand shri Atul Gupta learned counsel for the Respondent
submits that duty demand is time bared. To this effect he had made a

request to the commissioner who has mentioned in his order at page No.10 that the party has submitted that the duty proposed, is time barred. The show cause notice ^{has} ~~was~~ invoked the extended period of 5 years under Section 11A (1) of the Act. The party strongly objected to the said proposal. The Learned Counsel further submits that for his said objection the Learned Commissioner has not given any finding on the time bar and that he has decided the appeal on merit. He made a request that the issue of time bar should be decided.

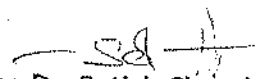
3. In view of the above, we set aside the impugned order and remand the matter back to the Commissioner with a direction to decide the issue of time bar after providing reasonable opportunity to the assessee. With these directions, the appeal is allowed by way of remand. Cross Objection is also disposed of.

(Dictated in Court)


(Anil G. Shakkwarwar)

Member (Technical)

akp


(Justice Dr. Satish Chandra)

President

प्रमाणित प्रति / Certified True Copy
8.12
सहायक नॉलेट / Asst. Registrar
सीमाशुल्क, छपरा / Excise & Customs
अपील अधिकार / (C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001

