FAX : 0532-2400149

REGISTERED / AD

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

Dated: 20/09/2017

To

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

Final Order No. A/71113/2017-SM[BR] dated 14/09/2017

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.

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	C/70514/2016	**Ramesh Aggarwal Director** Of M/s A. R. Fabrics Pvt. Ltd, X/1246, First Floor, Gali No.2, Rajgarh Colony, EAST DELHI DELHI 110031
		Name and Address of Respondent
2		C E & ST-Noida Ii OFFICE OF THE COMMISSIONER CENTRAL EXCISEHOTEL FORMULE 1, WEGMANS BUSINESS PARK, KP-III, GREATER NOIDA GOTAM BUDH NAGAR U.P.-

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Copy To

3 Bar Association, CESTAT, Allahabad

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

5 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

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

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

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

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

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

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

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

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

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. 2

APPEAL No. C/70514/2016-CU[SM]

(Arising out of Order-in-Appeal No. NOI-EXCUS-002-APP-0371-2015-16 dated 21/03/2016 passed by Commissioner of Central Excise & Customs (Appeals), Meerut-II at Noida)

M/s Ramesh Aggarwal - Director **Appellant**

Vs.

Commissioner of Central Excise & Service Tax, Noida-II **Respondent**

Appearance:

None, for Appellant

Shri Sandeep Kumar Singh, Deputy Commissioner (AR), for Respondent

CORAM:

Hon'ble Mr. Ashok Jindal, Member (Judicial)

Date of Hearing & Date of Decision : 14/09/2017

FINAL ORDER NO. 71113/2017........

Per: Anil Choudhary

The appellant is in appeal against the impugned order, wherein the ld. Commissioner (Appeals) has dismissed the appeal as time bar.

2. None appeared on behalf of the appellant nor any request for adjournment has been received. On perusal of the records, the appeal is taken up for final disposal.

3. The facts of the case is that against the order of adjudication, which was received by the appellant on 04/02/2015. The appeal was filed before the ld. Commissioner (Appeals) on 16/10/2015 with a delay of 191

days. The ld. Commissioner (Appeals) dismissed the appeal as time bar as same is beyond the time limit under Section 128(1) of the Customs Act, 1962. Being aggrieved by the said order, the appellant preferred appeal before me.

4. In the appeal memo, the appellant has contended that in the case of Collector Land Acquisition *Versus* Mst. Katiji & Others reported at 1987 AIR 1353 the Hon'ble Apex Court held that ordinarily a litigant does not stand to benefit by lodging an appeal late and refusing the condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. Therefore, the delay in filing the appeal before the ld. Commissioner (Appeals) is to be condoned.

5. Heard the ld. A. R. for Revenue and considered the submissions made by the appellant in their appeal memo.

6. I find that the facts of the case are not in dispute that against the Order-in-Original, which was communicated to the appellant on 04/02/2015, the appeal was filed before the Commissioner (Appeals) on 16/10/2015. Further, I find that as per Section 128(1) of the Customs Act, 1962, the appeal was required to be filed before the ld. Commissioner (Appeals) within 60 days from the date of the communication of adjudication order and the same can be extended by another period of 30 days being explained satisfactorily the reasons for causing delay. Admittedly, the appeal has been filed beyond the time limit prescribed under Section 128(1) of the

Customs Act, 1962. In that circumstance, the ld. Commissioner (Appeals) has rightly dismissed the appeal as time bar.

7. In view of the above observations, I do not find any infirmity in the impugned order, the same is upheld.

8. In result, the appeal filed by the appellant is dismissed.

(Dictated & Pronounced in Court)

Sd/-

(Ashok Jindal)

Member(Judicial)

Ansari

प्रमाणित प्रति/Certified True Copy
03/10/17
सहायक पंजीकार/Asstt. Registrar
सीमा शुल्क, उत्पाद शुल्क एवं सेवा कर
अपील अधिकरण(C.E.S.T.A.T.)
38, एम.जी.मार्ग, इलाहाबाद-211001
38, M. G. MARG,ALLAHABAD-211001