

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

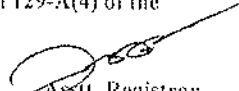
To

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.

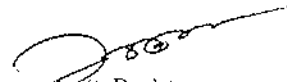

Asstt. Registrar

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 li 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), Vaidhyaram 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, I-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 ICAI 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 :



FINAL ORDER NO. 7.1113./2017.....

Per: Anil Choudhary

The appellant is in appeal against the impugned order,
wherein the Id. 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 Id.
Commissioner (Appeals) on 16/10/2015 with a delay of 191

Ashok Jindal

days. The Id. 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 Id. Commissioner (Appeals) is to be condoned.

5. Heard the Id. 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 Id. 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

A. S. Singh

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 प्रतिलिपि/Certified True Copy

03/10/17
सहायक पंजीयक/Asstt. Registrar
सीमा शुल्क, वसाहतगंज एवं रोड का
अधीन निरीक्षण(C.E.S.T.A.T.)
38, एन.सी.मार्ग, वसाहतगंज-211001
38, M. G. MARG, ALLAHABAD-211001