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: 17/11/2017

To

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

Final Order No. A/71389-71390/2017-SM[BR] dated 14/11/2017

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.**

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/182/2011	**J.R. ORGANICS LTD.,** SOMAIYA NAGAR, DEWA ROAD, BARABANKI.
2	E/183/2011	**SHRI Y.K. JHUNJHUNWALA (M.D.)** M/S J.R. ORGANICS LTD., SOMAIYA NAGAR, DEWAS ROAD, BARABANKI.

Name and Address of Respondent

3 -C.C.E. LUCKNOW
7-A, Ashok Marg, Lucknow.

4 -C.C.E. LUCKNOW
7-A, Ashok Marg, Lucknow.

Other Appellants and Respondents as per Annexure

Copy To

5 Advocate(s) / Consultant(s):

S. N. Srivastava, Adv.
C-5, Sector - B, Aliganj,
Lucknow,
Uttar Pradesh

6 Bar Association, CESTAT, Allahabad

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

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

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

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

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

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

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

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

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

16 C.D.R. 17 Office Copy 18 Second Folder Copy 19 Guard File

Asstt. Registrar

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

Ex.Appeal Nos.182,183/11

Arising out of O/A No.321-322/CE/LKO/2010 dated 07.10.2010 passed by Commr. (Appeals) of Central Excise, Customs & Service Tax, Lucknow

M/s J.R.Organics Ltd.
Shri Y. K. Jhunjhunwala, M.D.

...APPELLANT(S)

VERSUS

Commr. of Central Excise, Lucknow

RESPONDENT (S)

APPEARANCE

Request for Adjournment by Shri R. S.Tiwari, Representative of the Appellant (s)
Md. Altaf, Asstt. Commissioner (A.R.) for the Revenue

CORAM:

MRS. ARCHANA WADHWA, HON'BLE JUDICIAL MEMBER

DATE OF HEARING/DATE OF DECISION : 14. 11. 2017

Final ORDER NO. 71389 - 71390/2017

Per Mrs.Archana Wadhwa :

After rejecting the request for adjournment, I proceed to decide both the appeals as they arise out of the same order passed by the lower authorities.

2. After hearing the ld.A.R. for the Revenue and after going through the impugned order, I find that the appellants paid the duty for the month of December, 2008 by debiting the same from their PLA Account, which were having nil balance. Such duty was subsequently paid by them and there is no dispute . The lower authorities have confirmed the demand of interest and imposed equal penalty on the manufacturing unit in terms of Rule 11AC

read with Rule 25 of Central Excise Rules, 2002. In addition, penalty of equal amount was imposed on Shri Y. K. Jhunjhunwala, Managing Director under Rule 26 of Central Excise Rules, 2002.

3. I find that it is an admitted case of the ~~shows~~ delayed payment of duty in which case the provisions of Rule 27 would get attracted as held by the Tribunal in the case of Saurashtra Cement Ltd.Vs. CCEx., Rajkot : 2008 (225) ELT 395 (Tri.Ahmd.). The said Tribunal's decision stands confirmed by the Hon'ble Gujarat High Court in the case of Commr. of Central Excise & Customs Vs. Saurashtra Cement Ltd. : 2010 (260) ELT 71 (Guj.). Inasmuch as the appellant's liability to pay duty was duly reflected in their records and it is only the case of delayed payment of duty, I hold that the penal provisions invokable against the assessee, would be under Rule 27 as held in the above referred decision, which provides for maximum penalty of Rs.5,000/-. As regards interest, as the appellants have not discharged the duty liability in time, they are liable to interest for ~~from~~ the same. In view of the above, demand along with interest is confirmed. However, penalty is reduced to Rs.5,000/- on the manufacturing unit. Penalty imposed upon the Managing Director is, however, set aside.

4. Both the appeals are disposed of in the above manner.

Dictated and pronounced in the open Court

Sd/-
(Archana Wadhawa)
Member(Judicial)

mm

प्रमाणित प्रति/Certified True Copy
06/12/17

सहायक पंजीकार/Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण/(C.E.S.T.A.T.)
38, एम.जी.मार्ग, इलाहाबाद-211001
38, M. G. MARG,ALLAHABAD-211001