

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

Dated: 24/10/2017

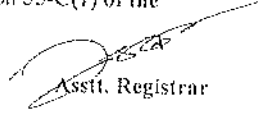
To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71265/2017-SM[BR] dated 17/10/2017

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/70173/2015	Jain Packaging Industries Village Shahjapur, Agra Road SHIKOHABAD UP
		Name and Address of Respondent
2		C.C.E. & S.T-Agra COMMISSIONER OF CUSTOMS, CENTRAL EXCISE & SERVICE TAX 113/4, SANJAY PLACE, AGRA U.P.-282002

Copy To

3 Advocate(s) / Consultant(s):

BHIDHAN CHANDRA RAI, ADV
HIG- 27, PINK COLONY I-
CIRCULAR ROAD
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, Opp ICICI Bank of Defence Colony 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 ICAI society, 52, Nagarjuna Hill, Punjagutta Hyderabad.-500082

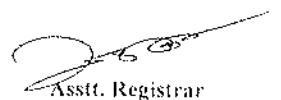
13 M/S Knowledge Processing Pvt. Ltd.(taxmanagementindia.com), FF-19, 1st Floor, Cross River Mall, CBD Ground, Near Karkardooma Court, Delhi-110032

14 C.D.R.

15 Office Copy

16 Second Folder Copy

17 Guard File


 Asstt. Registrar

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL**

REGIONAL BENCH : ALLAHABAD

COURT No. I

APPEAL No. E/70173/2015-EX[SM]

(Arising out of Order-in-Appeal No. 357-358-CE/APPL-AGRA/LKO/2015 dated 08/09/2015 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Lucknow)

M/s Jain Packaging Industries

Appellant

Vs.

Commissioner of Central Excise & Service Tax, Agra

Respondent

Appearance:

Shri Bidhan Chand Rai, Advocate,

for Appellant

Shri Gyanendra Kumar Tripathi, Assistant Commissioner (AR),

for Respondent

CORAM:

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing & Date of Decision : 17/10/2017

FINAL ORDER NO. 7712.S.S./2.817.....

Per: Anil G. Shakkarwar

The present appeal is directed against Order-in-Appeal

No. 357-358-CE/APPL-AGRA/LKO/2015 dated 08/09/2015 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Lucknow.

2. The brief facts of the case are that the appellants were issued with a Show Cause Notice dated 01/11/2012 which was adjudicated through Order-in-Original No. 195-CE/Adj/DC/Agra/2014 dated 19/09/2014, wherein the Original Authority confirmed the demand of Central Excise duty amounting to Rs.4,11,012/- on the appellant-M/s Jain Packaging Industries under the provisions of Section 11A of Central Excise Act, 1944. Further he imposed penalty of Rs.4,11,012/- on the appellant-M/s Jain Packaging Industries under provisions of Section 11AC read with Rule 25 of Central Excise Rules, 2002. Being aggrieved by the said



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order, appellant and Revenue both preferred appeals before Commissioner (Appeals), Lucknow. The Id. Commissioner (Appeals), Lucknow decided both the appeals through impugned Order-in-Appeal dated 08/09/2015. In respect of appeal filed by the appellant at Page 5 of the impugned Order-in-Appeal Id. Commissioner (Appeals), Lucknow has recorded that the appellant dispatched the appeal to Id. Commissioner (Appeals) Office at Lucknow on 16/01/2015 as per the bookings slip issued by the Postal Department and normal period and condonable period of one month expired on 07/01/2015 and therefore, Id. Commissioner (Appeals), Lucknow received the same appeal as time barred. He, therefore, rejected the appeal filed by the appellant as time barred i.e. delay in filing of appeal. Being aggrieved by the said order, appellant is before this Tribunal.

3. Heard the Id. Counsel for the appellant, who has submitted that said Order-in-Original dated 19/09/2014 was issued along with preamble and preamble indicated that aggrieved person can file appeal against the said order dated 19/09/2014 before Commissioner (Appeals), Sarvodaya Nagar, Kanpur. He further stated that the then Counsel for appellant prepared the papers on 27/12/2014 and reached the office of the Commissioner (Appeals) at Sarvodaya Nagar, Kanpur, where he was informed that the Office of the Commissioner (Appeals) was shifted to Lucknow from Kanpur. The Id. Counsel has submitted that the preamble to

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the said Order-in-Original dated 19/09/2014 directed them to filed appeal at the address of Commissioner (Appeals), Sarvodaya Nagar, Kanpur, where they went on 27/12/2014 which was a date within the period in which as per law they could have filed the appeal. He has further stated that since the office itself shifted for Lucknow, their appeal should be treating to have been received by Commissioner (Appeals), Lucknow at Sarvodaya Nagar, Kanpur on 27/12/2014.

4. Heard the Id. A. R. for Revenue, who supported the impugned Order-in-Appeal dated 08/09/2015.

5. Having considered the rival contentions and on perusal of the fact on record, I find that the ends of justice will meet by treating the present appeal having been received by the Id. Commissioner (Appeals), Lucknow at Sarvodaya Nagar, Kanpur on 27/12/2014 and as a result treating the same to have been received within the time stipulated under Sub-section (1) of Section 35 of the Central Excise Act, 1944. I, therefore, hold that the present appeal was filed in time and therefore, I remand the matter back to the file of Id. Commissioner (Appeals), with a direction to Id. Commissioner (Appeals) decide the same on merit.

(Dictated & Pronounced in Court)

-Sd/-

प्रमाणित प्रति/Certified True Copy

(ANIL G. SHAKKARWAR)

Member (TECHNICAL)

Ansari

सहायक सी.एस.टी. ऑफिसर/Asstt. Registrar
सीमा शुल्क, उत्पाद शुल्क एवं सेवा कर
राज्यीय अधिकरण/(C.E.S.T.A.T.)
38, राज.जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001