FAX : 0532-2400149

REGISTERED / AD

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

To

Dated: 15/09/2017

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

Final Order No. A/71010/2017-SM[BR] dated 08/09/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	ST/70999/2016	**Bhasin Caterers And Decorators** Dharma Market,sector-27 NOIDA UP
		Name and Address of Respondent
2		C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307

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
Old Red Building, 38 M.G. Marg, Civil Lines, Allahabad – 211 001

COURT NO. II

DATE OF HEARING : 08/09/2017.
DATE OF DECISION : 08/09/2017.

Service Tax Appeal No. 70999 of 2016 (SM)

[Arising out of the Order-in-Appeal No. NOI/SVTAX/000/APPL-I/133/2016-17 dated 15/07/2016 passed by The Commissioner (Appeals), Central Excise (Appeals – I), Meerut.]

M/s Bhasin Caterers and Decorators — Appellant

Versus

CCE & ST, Noida — Respondent

Appearance

None – for the Appellant.

Shri Gyanendra Tripathi, Authorized Representative (DR) – for the Respondent.

CORAM: **Hon'ble Shri Ashok Jindal, Member (Judicial)**

Final Order No. 71010/2017 Dated : 08/09/2017

Per. Ashok Jindal :-

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

2. The facts of the case are that the adjudication order was received by the appellant on 17/04/2015 against the said order, the appellant has filed appeal before the learned Commissioner

Ashok Jindal

(Appeals) on 08/04/2016. The learned Commissioner (Appeals) dismissed the appeal of the appellant as time bar. Aggrieved from the said order the appellant is before me on the ground that learned Commissioner (Appeals) has fell in error while rejecting the appeal as time bar and relied on the decision of **Collector, Land Acquisition Anantnag and Anr. Vs. Mst. Katiji and Ors.** reported in **1987 (28) E.L.T. 185 (S.C.)** to say that liberal approach should be made while dealing with condonation of delay so that justice must be approachable.

3. Considered the grounds taken by the appellant in the appeal and perused the impugned order. On perusal of the impugned order, it is not disputed by the appellant that the adjudication order was received by them on 17/04/2015 against the said order, the appeal was filed before the learned Commissioner (Appeals) on 08/04/2016.

4. As per the Section 85 (3) (a) of the Finance Act, 1994 if an appal is required to be filed against the adjudication order, the same is to be filed within two months before the learned Commissioner (Appeals) and the said period can be extended by another one month if the reasons for causing delay has been explained to the satisfactory to learned Commissioner (Appeals). Thereafter, learned Commissioner (Appeals) have no power to condone the delay. Admittedly, the appeal has been filed beyond the period of limitation, therefore, relying on the decision of Hon'ble Apex Court in the case of **Singh Enterprises vs. CCE, Jamshedpur** reported in **2008 (221) E.L.T. 163 (S.C.),**

Ashok Jindal

wherein it has been held that appeal is to be filed within two months from the date of communication of adjudication order and delay is condonable upto further one month on sufficient cause for causing delay is shown. Therefore, appeal is not maintainable relying on the decision of **Singh Enterprises** (supra), I hold that appeal has been filed before the learned Commissioner (Appeals) is beyond the period of limitation.

5. In that circumstances, I do not find any infirmity with the impugned order. The same is upheld.

6. Appeal filed by the appellant is dismissed.

(Dictated and pronounced in open court.)

Sd/-

(Ashok Jindal)

Member(Judicial)

PK

प्रमाणित प्रति/Certified True Copy
27/09/17
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