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REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066
CUSTOMS APPEAL BRANCH

Dated: **11/03/2014**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **C/A/50945/2014-CU[DB]** dated **07/03/2014**

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(CUSTOMS Appeal Branch)

Application	Appeal	Name and Address of Appellant
1	C/419/2009	**SIEKO BRUSHWARE (INDIA),** 4/15, BAGICHI STREET, VISHWAS NAGAR, DELHI-110032.
		Name and Address of Respondent
2	C/419/2009	**C.C. (ICD) NEW DELHI** ICD, TUGHLAKABAD, NEW DELHI 110020.

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Other Appellants and Respondents as per Annexure

Copy To

3Advocate(s) / Consultant(s):

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4 Bar Association, CESTAT, Delhi

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

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, 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 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15

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

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

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

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

Asstt. Registrar(CUSTOMS Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
DIVISION BENCH
Court No.2

Date of hearing/Decision: 07.03.2014

Appeal No.C/419/2009-Cus

(Arising out of Order-in-Appeal No.CC(A)/CUS/ICD/109/09 dated 4.5.09 passed by CCE (A), New Delhi)

M/s.Seiko Brushware (India) **Appellant**

Vs.

CC, ICD, TKD, New Delhi **Respondent**

Present for the Appellant: None
Present for the Respondent: Shri Rakesh Puri, DR

Coram: Hon'ble Mr.D.N.Panda, Judicial Member
Hon'ble Mr.Manmohan Singh, Technical Member

FINAL ORDER No.50945/2014

PER: D.N.PANDA

None present for the appellant nor is there any adjournment application. Appeal is of four years old.

2. When the Commissioner (Appeals) has recorded that the appeal came on record on 10.2.2009, while Order-in-Original was passed on 4.8.08 and served on the appellant on 7.8.2008. There was no evidence before him as to the filing of appeal duly for which he concluded that appeal was barred by limitation in view of delay of 127 days. When there was no reason given to the Commissioner (Appeals) as to the delay, he dismissed the appeal. Law is

well settled that statutory authority cannot be compelled to pass order beyond limitation.

3. There is an affidavit on record. There is no dispute by the appellant as to the date of service of order-in-original. Only plea of the appellant is that appeal papers were sent on 17.09.2008 by courier. Courier receipt is available on page 19 of appeal folder. That revealed that the date is not mentioned correctly in the courier receipt. There is overwriting of date. This clearly shows that courier receipt is only a medium with afterthought plea to satisfy records that appeal paper was sent by courier. Courier receipt appears to be fabricated document which cannot be accepted as a cogent evidence in the eyes of law. Appellant is not having any other evidence as to the obtaining of acknowledgement of office of Commissioner (Appeals) in respect of filing of appeal. Learned Authority was therefore correct to dismiss the appeal being barred by limitation. Accordingly present appeal is not maintainable and same is dismissed.

(Dictated & pronounced in the open court)

10.3.2014 | 10/3/2014.

(MANMOHAN SINGH)
TECHNICAL MEMBER

(D.N.PANDA)
JUDICIAL MEMBER

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