

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

Appeal No. E/785 - ~~799~~ 900-917, 2000, 2388-92, 2401-04, 3079-80/2007

Date 28/12/2007

Assistant Registrar  
C.E.S.T.A.T. New Delhi

To :  
C.C.E. CHANDIGARH  
C.R. BUILDING, PLOT NO. 19, SECTOR 17-C,  
CHANDIGARH 160017

C.C.E. CHANDIGARH

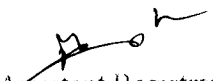
M S ESS BEE INDUSTRIES

Appellant

Vs  
Respondent

dated 19-12-07

I am directed to transmit herewith a certified copy of Final order No. 590-631/07 excise  
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

  
Assistant Registrar  
(Excise Appeal Branch)

Copy to :

1 Respondent

M/S ESS BEE INDUSTRIES

148 INDUSTRIAL AREA-II CHANDIGARH

2. Adv. / Consult

SH. RAVI RAGHVAN, ADV.,  
B-6/10, S.J. ENCLAVE,  
N. DELHI - 29

2. SH. BALBIR SINGH, ADV.,

MASTAN & CO.  
C-5/9, S.J. ENCLAVE,  
N. DELHI -

3. C.D.R.

~~4. I.C.D.R.~~

5. Bar association, CESTAT, New Delhi

6. M/s. Deeparchi Publications, M-93, marg, 43, saket, New

7. M/s Centax Publications (P) Ltd., 1512-E, Bhisim Pitamah

8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301

9. R. Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -

10. Nidheshak publications, LP Estate, new Delhi

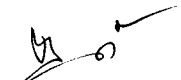
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,

12. Co. Law Institution

13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070

14. Office Copy

15. Guard file

  
Assistant Registrar  
(Excise Appeal Branch)

2. M/S. ASSOCIATED PLUMBINGS,  
82, INDL. AREA-I, CHANDIGARH
3. M/S. AMRIT PRECISION TOOLS,  
D-156, INDL. AREA-VII, MOHALI
4. M/S. ESS AAR ENTERPRISES,  
181/16, INDL. AREA-I, CHANDIGARH
5. M/S. KAY DEE INDUSTRIES,  
633, INDL. AREA-II, CHANDIGARH
6. M/S. A.K. ENTERPRISES,  
46, INDL. AREA-II, CHANDIGARH
7. M/S. S.R. CONCERNS,  
18, MW, PHASE-I, CHANDIGARH
8. M/S. SOHAL INDUSTRIES,  
E-11, PHASE-VII, MOHALI
9. M/S. S.J. CONCERNS,  
E-28, PHASE-VII, MOHALI
10. M/S. DEE KAY INDUSTRIES,  
713, INDL. AREA-II, CHANDIGARH
11. M/S. H & A CONCERNS,  
E-11, PHASE-VII, MOHALI
12. M/S. KAPCO ENGINEERS,  
295, INDL. AREA-II, CHANDIGARH
13. M/S. S.S. INDUSTRIES,  
181/20, INDL. AREA-I, CHANDIGARH
14. M/S. KHANNA INDUSTRIES,  
121, INDL. AREA, CHANDIGARH
15. M/S. AMAR INDUSTRIES,  
300, INDL. AREA-II, CHANDIGARH
16. M/S. S.B. INDUSTRIES,  
815, INDL. AREA-II, CHANDIGARH

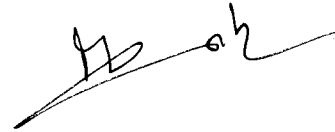
A.R

S.B. Ess Industr

17. M/S. ARKSON PVT. LTD.,  
82, INDL. AREA-I, CHANDIGARH

18. M/S. A.K. ENTERPRISES,  
49, INDL. AREA-II, CHANDIGARH

19. M/S. MAHINDRA INDUSTRIES, CHANDIGARH



IN THE CUSTOMS, EXCISE & SERVICE TAX  
APPELLATE TRIBUNAL, NEW DELHI  
PRINCIPAL BENCH, NEW DELHI  
COURT NO. II

**Excise Appeal No. 785-799, 900-917 of 2000, 2388-92, 2401 and  
2404 of 2000, 3079-80 of 2000**

(Arising out of Order-in-Appeal No. 1955-1967/CE/CHD/99 & 1937-1954/CE/CGD/99 both dated 12.11.99, 756-762/CE/CHD/2000 dated 18.4.2000, 756-762/CE/CHD/I dated 18.4.2000, 1228-1229/CE/CHD/2000 dated 27.6.2000 passed by the Commissioner (Appeals), Central Excise, Chandigarh)

For approval and signature

HON'BLE MR. S.S. KANG, VICE PRESIDENT  
HON'BLE MR. K.K. AGARWAL, MEMBER (TECHNICAL)

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3.	Whether their Lordships wish to see the fair copy of the order?	
4.	Whether order is to be circulated to the Departmental authorities.	

CCE, Chandigarh

Appellant

Vs.

M/s Ess Bee Industries Ltd. & Others  
M/s Associated Plumbings & Others  
Amar Industries & Others  
M/s Arkson Pvt. Ltd. & Others  
M/s Kapco Engg. & Others

Respondents

Appearance:

Shri A.N. Sharma, Jt. CDR - For appellant  
Shri Ravi Raghvan, Sh. Balbir Singh, Advocates - For respondent

CORAM:

HON'BLE MR. S.S. KANG, VICE PRESIDENT  
HON'BLE MR. K.K. AGARWAL, MEMBER (TECHNICAL)

Date of Hearing: 19.12.07

*Final* Order No. *590 To 631/2007Ex* ..... dated *12-12-2007*

Per S.S. Kang :

Heard both sides. Common issue is involved in these appeals, therefore, are being taken up together.

2. The appeals are being taken up in view of the order by Hon'ble Supreme Court in the case of **CCE Vs. Khanna Industries** reported in 2007 (207) ELT 17. The Hon'ble Supreme Court remanded the matter on the issue of time bar. The Hon'ble Supreme Court held as under:-

"However, as rightly contended by learned counsel for the respondents, the plea relating to non-applicability of extended period of limitation has not been considered by the CEGAT. Therefore, the matter is remanded and the above issue alone will now be considered by the CEGAT".

3. In this case, the respondents are availing the benefit of small scale exemption notification. The adjudicating authority denied the benefit on the ground that the respondents were clearing the goods with the brand name of other person and confirmed the demand and imposed penalties by invoking the extended period of limitation.

4. On appeal filed by the respondent, the Commissioner (Appeals) allowed the appeal on merit by holding that the present respondents are entitled for the benefit of small scale exemption notification and in respect of limitation, the Commissioner (Appeals) held that as the present respondents were eligible for benefit of small scale exemption notification and did not attract disqualification under para 7 of the notification, the application of extended period of limitation for demand of duty is not called for.

5. Now, we find that Hon'ble Supreme Court on merits held against the present respondent and remanded only to decide the issue of limitation. As Commissioner (Appeals) has not gone into this issue of limitation as no specific finding on the issue of limitation are in the order in appeal. The contention of the present respondent is that they filed necessary declaration and no suppression can be alleged against them, whereas the finding in adjudication order is that present respondent had not produced any evidence which shows that there is no suppression with intend to

evade duty; on their part, which requires verification. In these circumstances, we find it is a fit case for remand to the Commissioner (Appeals) to decide the issue of limitation after affording an opportunity of hearing to the respondent. The appeals are disposed of by way of remand.

(Dictated & pronounced in open Court)

(S.S. KANG)  
VICE PRESIDENT

(K.K. AGARWAL)  
MEMBER (TECHNICAL)

RM