

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

EXCISE APPEAL BRANCH

E/S/1971/07

Appeal No. E/2343/2007

Date 22/10/2007

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

To :  
M/S TRIVENI CASTING PVT. LTD.  
PLOT NO 51-52, SECOTR -5, PARWANOO, DISTT-  
SOLAN. (HP)

M/S TRIVENI CASTING PVT. LTD.

Appellant

C.C.E. CHANDIGARH

STAY ORDER NO. 1015/07-EX.

Vs  
Respondent

I am directed to transmit herewith a certified copy of Final order No. 513/07-EX. dated 17-10-07  
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

  
Assistant Registrar  
(Excise Appeal Branch)

Copy to :

1. Respondent  
C.C.E. CHANDIGARH  
C.R. BUILDING, PLOT NO. 19, SECTOR 17-C,  
CHANDIGARH 160017
2. Adv. Consult  
MR.K.K ANAND,  
A-5,BASEMENT,LAJPAT NAGAR-III NEW DELHI-24
3. S.D.R.  
~~4. J.C.D.R.~~
5. Bar association. CESTAT, New Delhi
6. M/s. Deeparchi Publications. M-93, marg. 43. saket. New
7. M/s Centax Publictions (P) Ltd., 1512-E, Bhishm Pitamah
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301
9. R.Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -
10. Nidheshak publications. I.P.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)

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

**Excise Stay Application No. 1971 of 2007 & Excise Appeal No. 2343 of 2007**

(Arising out of Order-in-Appeal No. 284/CE/CHD/2007 dated 24.7.07 passed by the Commissioner (Appeals), Central Excise, Chandigarh)

For approval and signature

HON'BLE MR. S.S. KANG, VICE PRESIDENT  
HON'BLE MR. P. KARTHIKEYAN, MEMBER (TECHNICAL)

*Swetha*

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.	

M/s Triveni Castings Pvt. Ltd.

Appellant

Vs.

CCE, Chandigarh

Respondent

Appearance:

Shri Hemant Bajaj, Advocate

- For appellant

Shri Sanjay Kumar, DR

- For respondent

CORAM:

HON'BLE MR. S.S. KANG, VICE PRESIDENT

HON'BLE MR. P. KARTHIKEYAN, MEMBER (TECHNICAL)

Date of Hearing: 17.10.07

Final Order No. *513/2007EX* dated.....

STAY order No. *1015/2007EX*

Per S.S. Kang :

Heard both sides.

2. The applicant filed this application for waiver of pre-deposit of duty of Rs.17,19,126/- and penalty of the equal amount. The demand was confirmed after denying the credit on the ground that the supplier of inputs is non-existent firm. The contention of the applicant is that they had received the goods under the cover of invoices showing payment of duty and goods was entered in Himachal Pradesh as per the record maintained at barriers. The contention is also that payments were made through bank channels, therefore, credit cannot be denied. The applicant also pleaded financial hardships on the ground that their unit is closed. Keeping in view the facts and circumstances of the case, as there is finding of fact that supplier of inputs are non-existent units, therefore, we find it is not a fit case for total waiver of duty. The applicants are directed to deposit an amount of Rs. Six lakhs within a period of eight weeks. On deposit of the above-mentioned amount the pre-deposit of remaining amount of duty and penalty is waived.



3. The Commissioner (Appeals) dismissed the appeal for non-compliance to the provisions of Section 35F of Central Excise Act and had not decided the appeal on merits. In these circumstances, the impugned order is set aside and the matter is remanded to the Commissioner (Appeals) to decide the appeal on merits on showing the proof of deposit of Rs. Six lakhs and after affording an opportunity of hearing to the appellant. The appeal is disposed of by way of remand.

(Dictated & pronounced in open Court)

  
(S.S. KANG)

VICE PRESIDENT



(P. KARTHIKEYAN)  
MEMBER (TECHNICAL)

RM