

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

EXCISE APPEAL BRANCH

*E/S/1070/07-EX in*

Date 02/08/2007

Appeal No. E/1330/2007

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

To :  
SHRI KAMAL BALANI, PROP. M/S ARIES FEEDS  
C-27, MEHDAURI COLONY TELIARGANJ,  
ALLAHABAD (U.P.)


Appellant  
Vs  
Respondent

SHRI KAMAL BALANI, PROP. M/S ARIES FEEDS

C.C.E ALLAHABAD

*STAY ORDER NO. 945/07-EX.*

I am directed to transmit herewith a certified copy of Final order No. *477/07-EX* dated *22-8-07* 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 ALLAHABAD  
38.M.G.MARG, CIVIL LINES, ALLAHABAD
2. Adv. / Consult  
MR.NAVEEN MULLICK  
B-388, MERA BAGH, NEW DELHI-63.
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 Publications (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  
West Block No.2, R.K. Puram, New Delhi-110066.  
Principal Bench, New Delhi**

**COURT NO. II**

**Excise Stay Application No. 1070 of 2007 in Appeal No.  
1330 of 2007**

[Arising out of the Order-in-Appeal No. 113/CE/Alld/2006  
dated 16.10.2006 passed by The Commissioner (Appeals), of  
Central Excise, Allahabad.]

Kamal Balani

Appellant

Versus

CCE, Allahabad

Respondent

**Appearance**

Shri Naveen Mullick, Advocate - for the appellant.

Shri S.M. Tata, Authorized Representative (SDR) - for the  
respondent.

**CORAM: Hon'ble Mr. S.S. Kang, Vice President  
Hon'ble Mr. C.N.B. Nair, Member (Technical)**

**DATE OF HEARING : 22/08/2007.**

Revised Order No. 477/2007 EX Dated: 22-8-2007  
Stay Order No. 945/2007 EX

**Per. S.S. Kang :-**

The applicant filed this application for waiver of pre-deposit of duty of Rs. 1,42,783/- and penalty of Rs. 1,00,000/. The demand was confirmed on the ground that the applicant received certain goods without payment of duty under Chapter X of the Central Excise Rules, 1944 and same was not used in the specified goods and the goods were diverted for other purposes.

2. The contention of applicant is that un-relied documents seized by the revenue are not supplied to the applicant, therefore, they were not in a position to file reply and defend their case. During the hearing of stay application, revenue was directed to supply the un-relied documents and today the un-relied documents were supplied to the applicant in the court. In these circumstances, as the seized documents were now supplied to the applicant, we find it is a fit case for re-consideration by the adjudication authority. The impugned order is set aside, after waiving the pre-deposit of duty and penalty and the matter is remanded back to the adjudicating authority to decide afresh after giving an opportunity to the

applicant. The applicants are directed to file reply within four weeks from today. The appeal is disposed of by way of remand.

(Dictated and pronounced in the open court)

**(S.S. Kang)**  
**Vice President**

**(C.N.B. Nair)**  
**Member (T)**

PK