

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

E/S/ 1689, 1692-95/07 in EXCISE APPEAL BRANCH

Appeal No. E/2075/2007, 2080/2007-2083/2007

Date 21/08/2007

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

To :  
M/S HILITE INDS. PVT. LTD.  
B-1, SITE-1, B.S. ROAD, INDL. AREA, GHAZIABAD

M/S HILITE INDS. PVT. LTD.


Appellant

C.C.E. GHAZIABAD

STAY ORDER NO. 287-891/07-EX

Vs  
Respondent

I am directed to transmit herewith a certified copy of Final order No. 454-458/07-EX dated 09-8-07  
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. GHAZIABAD

C.G. O. COMPLEX-II, KAMLA NEHRU NAGAR,  
GHAZIABAD 201302

2. Adv. / Consult

MR. V. LAXMIKUMARAN

B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029

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

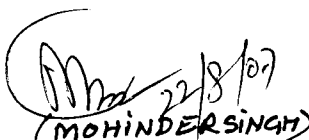
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,

12. Co. Law Institution

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

14. Office Copy

15. Guard file

  
(MOHINDER SINGH)  
Assistant Registrar  
(Excise Appeal Branch)

P.T.C

1. SMT. SUDHA SHARMA. DIRECTOR OF M/S HILITE IND. PVT. LTD.

B-1, SITE-1, B.S. ROAD, IND. AREA, GHAZIABAD

2 MR. A.B. SHARMA. (THROUGH LEGAL HEIR) DIRECTOR OF M/S HILITE INDS. PVT. LTD.

B-1, SITE-1, B.S. ROAD IND. AREA, GHAZIABAD

3 M/S NEW DELHI MINERALS & CHEMICALS

IIND FLOOR, SANJAY MOHALLA (OPP. YAD RAM PUBLIC SCHOOL), BHAJANPURA, DELHI AND 2/55, ROOP  
NAGAR, NEW *DELHI*

4 M/S JSR INTERNATIONAL

D-154, IIND FLOOR, SANJAY MOHALLA, MAIN DISPENSARY ROAD, BHAJANPURA, DELHI

**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 Nos. 1689, 1692-1695 of 2007 in  
Appeal Nos. 2075, 2080-2083 of 2007**

[Arising out of the Order-in-Original No. 19/Comm/GZB/  
2007 dated 29.03.2007 passed by The Commissioner of  
Central Excise, Ghaziabad.]

1.	M/s Hilite Industries Pvt. Ltd.	]	
2.	Smt. Sudha Sharma, Director	]	
3.	Mr. A.B. Sharma, Director	]	Appellant
4.	M/s New Delhi Minerals & Chemicals	]	
5.	M/s JSR International	]	

Versus

CCE, Ghaziabad

Respondent

**Appearance**

Shri A.R.M. Rao, Advocate - for the appellant.

Shri Sanjay Kumar, Authorized Representative (DR) - for the  
respondent.

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

**DATE OF HEARING : 09/08/2007.**

Final Order No. 454 To 458/07ex Dated: 09/8/07  
Stay order No: 287 To 291/07ex

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

Heard both sides. Applicant filed these applications for waiver of pre-deposit of duty of Rs. 95,24,695/- and penalties. The contention of applicant is that the impugned order is passed for violation of principles of natural justice. The contention is that on receipt of show cause notice, applicant ask for cross-examination of the persons where statements were relied upon by the revenue. The adjudicating authority allowed the request and on 16/03/07, three witnesses were cross-examined. Thereafter no opportunity of personal hearing was granted and order was passed on 29/03/07. The contention is that as no opportunity of personal hearing was granted, therefore, impugned order was passed in violation of natural justice.

2. The revenue's contention is that though the show cause notice in the year 2004 was issued and the applicant have not even filed reply to the show cause notice and therefore they are not <sup>co-operating</sup> with the adjudicating authority hence the order was rightly passed.

3. We find that the admit facts of the case that on 16/03/07, three witnesses was cross-examined by the applicants. Thereafter, the impugned order was passed on 29/03/07 and no opportunity of personal hearing was granted. In these circumstances, we find force in the contention of applicant that impugned order was passed in violation of the principles of natural justice. Therefore, impugned order ~~was~~<sup>is</sup> set aside, after waiving the pre-deposit of duty and penalties and the matter is remanded back to adjudicating authority to decide afresh after affording opportunity for hearing. Appeals are disposed of by way of remand. Applicant was directed to appear before the adjudicating authority on 17<sup>th</sup> September 2007 and the adjudicating authority <sup>will</sup> ~~then~~ after will fix the date <sup>for hearing</sup>.

(Dictated and pronounced in the open court)

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

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

PK