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

Appeal No. E/3196/2007-3198/2007 E/S/ 2829-31/07 - Ex   Date 13/02/2008

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

To :
M/S HARI CAONCAST PVT. LTD.
B4-B9, FOCAL POINT, NABHA, DISTT. PATIALA,
PUNJAB

M/S HARI CAONCAST PVT. LTD.   Appellant
Vs
C.C.E. CHANDIGARH   Respondent

I am directed to transmit herewith a certified copy of Final order No. 54-56/08 Excise dated 07-2-08 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944 S/149-51/08-Ex

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 SH. JATINDER MOHAN
H.No. 4A, SECTOR NO. 2,
GHUMAN NAGAR, SIRHIND ROAD,
PATIALA-4
3. C.D.R.
~~4. JCDR.~~
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)

1 M/S HARI CONCAST PVT. LTD.
B4-B9, FOCAL POINT, NABHA, DISTT. PATIALA, PUNJAB
2 M/S HARI CONCAST PVT. LTD.
B4-B9, FOCAL POINT, NABHA, DISTT. PATIALA, PUNJAB

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. II

Excise Stay Application No. 2829 to 2831 of 2007 in Appeal No. 3196 to 3198 of 2007

[Arising out of the Order-in-Appeal No. 399-401/CE/CHD/2007 dated 13/09/2007 passed by The Commissioner (Appeals), Central Excise, Chandigarh.]

For Approval and signature :
Hon'ble Shri S.S. Kang, Vice President
Hon'ble Shri P. Karthikeyan, 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? : Yes
2. Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? : Yes
3. Whether their Lordships wish to see the fair copy of the order? : Seen
4. Whether order is to be circulated to the Department Authorities? : Yes

M/s Hari Concast Private Limited — Appellant

Versus

CCE, Chandigarh — Respondent

Appearance

Shri Jatinder Mohan, Consultant – for the appellant.

Shri S.M. Tata, Authorized Representative (SDR)– for the Respondent.

CORAM : Hon'ble Shri S.S. Kang, Vice President
Hon'ble Shri P. Karthikeyan, Member (Technical)

DATE OF HEARING : 07/02/2008.

Final Order No. 54-56/08-Ex Dated : 7-2-08
Stay order No. 149-51/08-Ex

Per. P. Karthikeyan :-

M/s Hari Concast (P) Ltd., Chandigarh has filed this application for waiver of pre-deposit and stay of recovery of dues as per the impugned order. Vide the order dated 13/09/2007, the Commissioner dismissed the appeals filed by the party against the orders of the Original Authority. The learned Consultant for the appellants submits that the dues ordered by the Original Authority have already been paid. We, therefore, find the stay applications infructuous and take up the appeals for disposal.

2. The impugned order has dismissed three appeals filed by the appellants. The orders of the Original Authority had been served on the appellants by pasting the same on the gate of the appellant's factory in presence of witnesses under a proper Panchnama in the year 2004. We find that the service of the

orders in original was in accordance with the provisions of Section 37C of the Central Excise Act, 1944. The appeals were filed before the Commissioner in all the cases in the year 2007, much beyond the time allowed under the Act for filing the appeal. Therefore, the Commissioner dismissed the appeals rightly in accordance with the law. In this connection, the learned SDR has furnished a copy of the judgement of the Apex Court in the case of **Singh Enterprises vs. CCE, Jamshedpur** reported in **2008 (221) E.L.T. 163 (S.C.)** in support of the plea that the impugned order has to be sustained. We find that in the above judgement, the Apex Court decided that the Commissioner (Appeals) did not have power to condone delay in filing appeal beyond ninety days of communication of the order. In view of the above, we find the appeals devoid of merit and dismiss them. The stay applications also get dismissed.

(Dictated and pronounced in open court)

(S.S. Kang)
Vice President

(P. Karthikeyan)
Member (Technical)

PK