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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/293 /2008 WITH E /S/330/2008 Date 30/04/2008

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

To :
M/S JINDAL DRUGS LTD.

PLOT NO. 1A, INDUSTRIAL AREA, GANGYAL,
JAMMU J & K
M/S JINDAL DRUGS LTD. Appellant

Vs

C.C.E. JAMMU STAY ORDER NO. 424/08-EX, Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 220/08 **Excise** dated 24-4-08

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. JAMMU

OB-32, RAIL HEAD COMPLEX, JAMMU - 180012.
2. Adv. / Consult

MR.PDS LEGAL,ADVOCATE

20NT FLOOR, EXPRESS TAWERS NARIMAN POINT, MUMBAI - 400021
3. S.D.R.
4. ~~J.C.D.R.~~
5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017
7. M/s Centax Publictions (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)
9. Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
12. Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar,Chennai 60017
13. Taxindiaonline.com Pvt.Ltd, 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

COURT – II

E/STAY No. 330/2008 IN & EXCISE APPEAL No. 293 OF 2008

[Arising out of Order-in-Appeal No. 303-304/ce/Apl/Jal/2007/3609 dated 28th September, 2007 passed by the Commissioner (Appeals), Central Excise, Jalandhar, Chandigarh]

For approval and signature:

Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. Rakesh Kumar, 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?	[illegible]
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	[illegible]
3.	Whether their Lordships wish to see the fair copy of the order?	[illegible]
4.	Whether order is to be circulated to the Departmental authorities?	[illegible]

M/s. Jindal Drugs Ltd. Appellants

Vs.

CCE, Jammu Respondent

Appearance:

Shri Prakash Shah, Advocate for the appellants,
Shri S.M. Tata, SDR, Departmental Representative, for the respondent

Coram:

Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. Rakesh Kumar, Member (Techncial)

Date of Hearing: 24th April, 2008

FINAL ORDER NO. 220/08-EX dated ________
STAY ORDER NO 424/08-EX

Per S.S. Kang:

Applicants filed this application for waiver of pre-deposit of duty. The Commissioner (Appeals) vide impugned order dismissed the appeal filed by the appellants as time barred.

2. Only contention of the applicants is that impugned order is passed in violation of principles of natural justice as no opportunity of hearing is given by the Commissioner (Appeals) before passing the impugned order. Contention is that the appellants are contesting the date of receipt of adjudication order. As per appellants adjudication order was received on 23rd May, 2007.

3. Contention of Revenue is that appeal was filed beyond the normal period of limitation. Applicants are duty bound to file application for condonation of delay. As there was no application for condonation of delay, impugned order was rightly passed.

4. We find that no opportunity of hearing was granted to the appellants before passing the impugned order. It is settled law that before passing any order, opportunity of personal hearing should be granted to the appellants. In view of this pre-deposit of duty is waived.

Stay application is allowed and the matter is remanded to the Commissioner (Appeals) to decide the issue of limitation afresh after affording opportunity of personal hearing to the appellants. Accordingly, appeal is disposed of by way of remand.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

Dated 25th April, 2008

RK