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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/16 /2008,25 /2008 & E/S/11&28/08 Date 14/07/2008

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

To :
M/S BESTAVISION ELECTRONICS LTD.

6B, MATHURA ROAD, JUNGPURA DELHI

M/S BESTAVISION ELECTRONICS LTD. Appellant

Vs

C.C.E. NOIDA Respondent

I am directed to transmit herewith a certified copy of **Final order No**.448-449/08&S.O.NO.705-6/08 **Excise** dated 10-7-07

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. NOIDA

   B-123, SECTOR 5, NOIDA.

2. Adv. / Consult

   MR.S.D.GAUR

   SB-108, SHASTRI NAGAR, GHAZIABAD.

3. S.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)

1 ~~M/S BESTAVISION ELECTRONICS LTD~~
~~6B,MATHURA ROAD JUNGPURA, DELHI~~

# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
## NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

**Excise Appeal Nos. 16 & 25 of 2008 with**
**Excise Stay Application Nos. 11 & 28 of 2008**

(Arising out of Order-in-Appeal Nos. 100 & 101 of 2007 dated 28.09.2007 passed by the Commissioner of Central Excise (Appeals), Noida).

DATE OF HEARING : 09.07.2008
DATE OF DECISION : 09.07.2008

FOR APPROVAL AND SIGNATURE :

**HON'BLE MRS. ARCHANA WADHWA, MEMBER (JUDICIAL)**
**HON'BLE MR. M. VEERAIYAN, 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 ?. | No |
| 2. | Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not ? | No |
| 3. | Whether their Lordships wish to see the fair copy of the Order ? | Seen |
| 4. | Whether Order is to be circulated to the Departmental Authorities? | Yes |

**M/s Bestavision Electronics Ltd.** .... **Appellant**
(Rep by Sh. S.D. Gaur, Conslt.)

VERSUS

**CCE, Noida** .... **Respondent**
(Rep. by Sh. S.M. Tata, DR)

**CORAM : HON'BLE MRS. ARCHANA WADHWA, MEMBER (J)**
**HON'BLE MR. M. VEERAIYAN, MEMBER (T)**

STAY **ORDER NO.** 705-706/08-EX
FINAL ORDER NO. 448-449/08-EX

**PER ARCHANA WADHWA :**

The Commissioner (Appeals) vide his impugned order-in-appeal has rejected the appeals on the ground of time bar by observing that, there was a delay of about seven years in filing the appeals before him. He has further observed that, the impugned orders (orders-in-original) dated 28.04.2000 and 26.05.2000 were handed over and acknowledged by the authorized person of the company on 13.07.2000 and the appeals stand filed before him on 06.08.2007. It is the appellant's contention that the person who received the orders left the company without bringing it to the notice of the responsible officer(s) about the receipt of the orders and as such delay has occurred on account of the above factor. On the other hand, learned DR submits that the orders having been received by the authorized signatory of the company, the appeals were required to be filed within a period of three months from the date of receipt of orders and the Commissioner (Appeals) does not have any power to condone the delay beyond the period of ninety days. Reliance stands placed on the Hon'ble Supreme Court's decision in the case of **Singh Enterprises vs Commissioner of Central Excise, Jamshedpur,** 2008 (221) ELT 163 (SC).

2. The appellant is not disputing the service of the orders-in-original on 13.07.2000. The appeals, having been filed in the year 2007, are, admittedly, barred by limitation and as the law on the issue that the Commissioner (Appeals) does not have any power to

condone the delay beyond the condonable period in terms of Section 35 of Central Excise Act, 1944, stands settled the impugned orders passed by him cannot be faulted upon. We accordingly reject the stay applications as well as the appeals.

(Dictated and pronounced in the open Court on the 9th day of July, 2008)

10/7/08

**(ARCHANA WADHWA)**
**MEMBER (JUDICIAL)**

**(M. VEERAIYAN)**
**MEMBER (TECHNICAL)**

Golay