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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/1158/2008,1177/2008WITH E/S/ 1164-1160/08 Date 09/07/2008

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

To :
M/S H.L.TEXTILES LTD.

32 KM STONE,
G.T.KARNAL ROAD, KUNDLI,
DISTT. SONEPAT (HARYANA)
M/S H.L.TEXTILES LTD. Appellant

Vs

C.C.E. ROHTAK Respondent

I am directed to transmit herewith a certified copy of **Final order No**.437-38/08& S.O.NO.692-93 /08 **Excise** dated 8-7-08

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. ROHTAK
   SCO NO.6 SECTOR 1, ROHTAK.
2. Adv. / Consult
   MR.VIVEK KOHLI, ADV.,
   R-89, G.K.-1, N.DELHI-48
3. 6.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)

P.T.O.

1. MR. MOHINDER KHANNA C/O
M/S H.L.TEXTILES LTD.
32 KM STONE,
G.T.KARNAL ROAD,
KUNDLI. DISTT. SONEPAT (HARYANA)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST BLOCK-II, R.K. PURAM, PRINCIPAL BENCH, NEW DELHI,
COURT NO. III

Excise Appeal Nos. 1158 & 1177 of 2008 with Excise Stay Nos. 1140 & 1160 of 2008

[Arising out of Order-in-Appeal No. 59/KKG/RTK/2008 dated 28.02.2008 passed by the Commissioner of Central Excise (Appeals), Gurgaon]

Date of hearing/decision 04.07.2008

Hon'ble Mrs. Archana Wadhwa, Member [Judicial]
Hon'ble Mr. M. Veeraiyan, Member [Technical]

M Veeraiyan

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?	Yes
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 H.L. Textiles Limited ...Appellants
Mohinder Khanna, M.D. of M/s H.L. Textiles Ltd.,
[Rep. by Mr. Ashwini Sharma, Advocate]

Vs.

CCE, Gurgaon ...Respondent
[Rep. by Mr. V.K. Agrawal, DR]

Coram: Hon'ble Mrs. Archana Wadhwa, Member [Judicial]
Hon'ble Mr. M. Veeraiyan, Member [Technical]

STAY ORDER ... / 08-EX
FINAL ORDER 432-433/08-EX

Per: M. Veeraiyan:

Since only a short issue is involved, we deem it proper and expedient to waive the pre-deposit of the dues as per the impugned order and dispose of the appeals finally.

M. Veeraiyan

2. The order of the original authority is dated 29.12.2006. The appellants claim that they received the order only on 10.02.2007 and that they filed the appeal before the Commissioner (Appeals) on 09.04.2007 within the time. However, the Department, based on the report of the postal authority claims that the order of the original authority has been served on 9.1.2007 and the appeal has been filed only on the ninetieth day from the date of receipt of the order .

3. Even if the date of receipt is 9.1.07, as claimed by the Department, we find that the appeal has been filed on 9.4.2007 i.e. on the ninetieth day from the date of receipt of the order. The delay, if any, is within the power of condonation by the Commissioner (Appeals).

4. We are not going into the dispute relating to the actual delivery of the order to the appellants as we are informed that there was death in the family of appellant- director. Taking a lenient view, we condone the delay, if any, in filing the appeal before the Commissioner (Appeals) and set-aside the order of the Commissioner (Appeals) and remand the matter to enable the Commissioner (Appeals) to decide the appeals on merits.

5. The appeals are allowed by way of remand and stay petitions are disposed of.

[Dictated and pronounced in the open Court].

8/7/08

[Archana Wadhwa]
Member [Judicial]

[M. Veeraiyan]
Member [Technical]

[Pant]