

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

Appeal No. E/6087/2004 - EX[DB] & E/6088/04 - EX,

Date 05/12/2008

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

To :
M/S THE DHAMPUR SUGAR MILLS LTD.
CHEMICAL DIVISION DHAMPUR DISTT, BIJNOR U.P. - 246761
M/S THE DHAMPUR SUGAR MILLS LTD.

C.C.E.MEERUT-II

Appellant

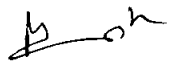
Vs

Respondent

EX[DB] dated 02-12-08

I am directed to transmit herewith a certified copy of Final order No. 908-909/08-

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.MEERUT-II

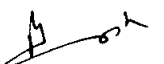
MANGAL PANDAY NAGAR MEERUT-II

2. Adv. / Consult SH. RAJESH KUMAR, ADV.,
24-A, DDA SFS FLAT, MOUNT KALLASH,
EAST OF KAILASH, N. DELHI-65

3. S.D.R

~~ICDR~~

- 5 Bar association, CESTAT, New Delhi
- 6 M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017
- 7 M/s Centax Publications (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New - 3
- 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), Thvagaraya Road, T. Nagar, Chennai
- 13 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kuni, New Delhi - 110070
- 14 Easy Service Tax Online Dot Com Pvt.Ltd.407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-1
- 15 Office Copy
- 16 Guard file


Assistant Registrar
(Excise Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

E/Appeal No. 6087 & 6088/2004 -Ex(Br)

(Arising out of order in appeal No. 136/CE/MRT.II/04 dated 7.7.04 passed by the Commissioner of Central Excise (Appeals), Meerut-II)

M/s Dhampur Sugar Mills Ltd

Appellant
(Rep. by Shri Rajesh Kumar, Advocate)

Vs

CCE, Meerut-II

Respondent
(Rep. by Shri K.K. Goel, DR)

Coram: Hon'ble Mr.D.N. Panda, Judicial Member
Hon'ble Mr. Rakesh Kumar, Technical Member

Date of Hearing: 14.11.08

FINAL Order No. 908-909 -/2008-Ex(BR)

Per D.N. Panda:

Learned Counsel for the appellant tenders his apology for the wrong averment made stating that the Tribunal had condoned the delay in filing the first appeal while that was not the position as revealed by record and confirmed by learned DR who found out that there is nothing on record to show that the Tribunal has condoned the delay in filing of appeal before the first appellate authority. According to the appellant, observation of the learned appellate authority as to 29 days delay and no condonation was just and proper is without any basis.

3. The appellant has already deposited Rs.15 lakhs in terms of the stay order dated 15.2.05. We find that extension of stay was granted by order dated 9.8.06. Learned Counsel submits that for failure to appear before the

learned first Appellate Authority resulted in dismissal of appeal and that was due reasons beyond the control of the Appellant in view of ~~Sickness~~ ^{Appellant}. It appears that submission of the appellant has basis for consideration since was deprived of appearance for stated reason of sickness. In view of the deposit made by the appellants, we send the matter back to the learned Appellate Authority to grant an opportunity of hearing to the appellant on the petition for condonation of delay. If he is satisfied that the application is in accordance with law, he is at liberty to decide the issue on merit. We observe from the impugned order that the learned Commissioner is expected to exhibit what was the date of communication of the order, when the limitation expired and date of filing of appeal to satisfy the length of delay, if any. We remand the matter with the aforesaid direction. Thus, both the appeals are remanded.

(Order dictated and pronounced in the open Court).

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

MPS*