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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/1856/2008 - EX[DB] & E/S/1821/08 Date 22/10/2008

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

To :
M/S SHARDA FORGING & STAMPING (P) LTD.
PLOT NO. 64, SITE-IV, INDL. AREA, SAHIBABAD,
GHAZIABAD (U.P.)

M/S SHARDA FORGING & STAMPING (P) LTD. Appellant

Vs

C.C.E. GHAZIABAD Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 771/08 & S.O.NO.1107/08- **EX[DB]** dated 30-9-08

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. GHAZIABAD

   C.G. O. COMPLEX-II, KAMLA NEHRU NAGAR, GHAZIABAD 201302
2. Adv. / Consult SH. S.S. DEVAS, ADV.,
   C/o APPELLANT

3 C.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 - 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). Thyagaraya Road. T. Nagar.Chennai
13 Taxindiaonline.com Pvt.Ltd. B-XI/8183.Vasant Kunj. 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
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Assistant Registrar
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH NEW DELHI

Excise Stay Application No.1821 of 2008 in
In Appeal No.1856 of 2008

M/s. Sharda Forging & Stamping (P) Ltd. ...Appellants

[Rep. by Shri S.S. Devas, Advocate]

Vs.

CCE, Ghaziabad ...Respondent

[Rep. by Shri S.N. Srivastava, DR]

CORAM: **Hon'ble Mr. M. Veeraiyan, Member (Technical)**
Hon'ble Mr. P.K. Das, Member (Judicial)

STAY Order No...1107/08-EX........./Dated:30.09.2008
FINAL ORDER NO. 771/08-EX

Per P.K. Das:

The issue involved in this case is in narrow compass and, therefore, the appeal alongwith stay petition are being taken up for hearing.

2. The Commissioner (Appeals) rejected the appeal as time barred. On perusal of the order of the Commissioner (Appeals), we find that the Appellant received the Adjudication Order on 3.4.2007 and the appeal was filed on 16.08.2007. Section 35 (1) of the Central Excise Act, 1944 provides to file appeal within 60 days and the Commissioner (Appeals) is empowered to condone the delay of another 30 days. In the present case, the Appellant filed appeal beyond 90 days.

3. Ld. Advocate submits that the ex-employee of the company received the order and left the job and on 14.8.2007. He informed that by

mistake he carried the Adjudication Order in his personal papers and sent it to the Company thereafter. He further submits that it came to the notice of the Appellant at the time of receipt of letter for recovery of dues.

4. We find that the Appellant received the Order on 3.4.2007. The Hon'ble Supreme Court in the case of Singh Enterprises Vs. CCE, Jamshedpur – 2008 (221) ELT 163 (SC) held that the Commissioner (Appeals) is not empowered to condone the delay beyond the stipulated period. So, the submission of the ld. Advocate is without any substance. In view of that, we do not find any reason to interfere the order of Commissioner (Appeals). Accordingly, the appeal is dismissed. The stay application is also disposed of.

Order dictated & pronounced in open court on 30.09.2008.

(M. Veeraiyan)
Member (Technical)

(P.K. Das)
Member (Judicial)

Ckp.