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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/2675/2006-2677/2006,2708/2006,3216/2006 - EX[DB] & E/17/64/09 Date 03/02/2009

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

To :
M/S GENE PHARMA LABORATORIES LTD,
B-6, BADLI INDUSTRIAL AREA DELHI
M/S GENE PHARMA LABORATORIES LTD,
C.C.E. DELHI I

Appellant

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No.83-87/2009 & M.O.NO.58/09- EX[DB] dated 28-1-09
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. DELHI I

C.R. BUILDING, I.P. ESTATE, NEW DELHI 110002

2. Adv. / Consult

MR.C.HARISHANKAR

46, BANK ENCLAVE, DELHI-110092

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 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), 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-15

15 Office Copy

16 Guard file


Assistant Registrar
(Excise Appeal Branch)

17. SH ANIL BHARGAVA
R/O OF 3, BGHARGAVA LANE NITYANAD MAGA CIVIL LINES
DELLHI

P.T.O. -2,

18. SHRI ARVIND BHARGAVA
R/O OF 3, BHARGAVA LANE NITYANAD MARG CIVIL LINES
DELHI
19. SMT. ANJALI BHARGAVA
R/O OF 3, BHARGAVA LANE NITYANAD MARG CIVIL LINES
DELHI
20. SMT. NISHA BHARGAVA
R/O OF 3, BHARGAVA LANE NITYANAD MARG CIVIL LINES
DELHI

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-III

Date of hearing/decision: 28.1.2009

Miscellaneous Application No.64 of 2009 in
Central Excise Appeal Nos. 3216, 2675-2677 and 2708 of 2006

Arising out of the Order in original No.07/2006 dated 21.4.06 passed by the
Commissioner, Central Excise, Delhi I.

For Approval and Signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K. Das, Member (judicial)

1	Whether Press Reporter 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 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

Appellant

Respondent

M/s Gene Pharma
Smt. Nisha Bhargava
Smt. Anjali Bhargava
Shri Arvind Bhargava
Shri Anil Bhargava

vs.

C.C.E.,
Delhi I

Appearance:

Shri P.K. Singh Advocate for the appellants/applicants
Shri B.S. Suhag, Authorized Departmental Representative (DR) for the Revenue

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

Misc Order No. 88/2009-Ex
Per P.K. Das: FINAL ORDER NO. 83-87/2009-Ex.

The applicant filed this application for modification of the Stay Order No.1158 - 1162/08-Ex., dated 23.10.08 whereby, the applicant company was directed to deposit a sum of Rs.50 lakhs and to report compliance on 28th January 2009. The applicant requested that they may be permitted to deposit the amount in 10 instalments of Rs.5,00,000/- in each month.

2. Learned SDR strongly opposes this application. He submits that the Tribunal in earlier occasion vide Stay Order dated 27th December 2006 directed the applicant company to deposit a sum of Rs.1 crore against the total demand of Rs.2,21,71,986/- which was set aside by the Hon'ble High Court and thereafter, the Tribunal vide Stay Order dated 23.10.08 directed the applicant company to deposit a sum of Rs. 50 lakhs which has also not been complied with by the applicant. He submits that the applicant deliberately delaying the proceedings and avoiding to comply with the order of the Tribunal.

3. After hearing both sides, we find from the Stay Order dated 23.10.08 that the applicant company was directed to deposit a sum of Rs.50 lakhs and to report compliance on 28.1.2009. Subject to deposit of the said amount, the Tribunal would waive the deposit of the balance amount of duty and penalty imposed on the applicant company and also penalties imposed on the Directors of the company. It was also directed by the Tribunal that subject to compliance of the order, the appeals will be taken up for final hearing on 17.3.2009. It appears that the applicant had not deposited any amount against the Stay order. In view of that, we do not find any merit in the application filed by the applicants. Accordingly, all the appeals are dismissed for non-compliance of the Stay order under Section 35F of the Central Excise Act, 1944. *Min. Application is rejected*

(Dictated and pronounced in the open Court)

(M. Veeraiyan)
Member (Technical)

(P.K. Das)
Member (Judicial)

scd/