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

Appeal No. C/699 /2008 - CU[DB]

Date 11/12/2008

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

To :
SHRI SUSHIL KUMAR
ASST. COMMERCIAL MANAGER,
M/S PUNJAB EXPORTS, 1202/10, SARDAR NAGAR,
ROHAN ROAD, LUDHIANA
SHRI SUSHIL KUMAR

Appellant

C.C.E. CHANDIGARH

STAY ORDER NO.C/351/08-CUS.

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No.C/656/08-CUS. DATED 04.12.08

passed by the Tribunal under Section 129, (B) of the Customs Act, 1962 & Financial Act 1994 relating to Service Tax




Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent

C.C.E. CHANDIGARH, C.R. BUILDING, PLOT NO. 19,

SECTOR 17-C, CHANDIGARH 160017

2. Adv. / Consult

MR.K.K ANAND, ADV.

A-5, BASEMENT, LAJPAT NAGAR-III NEW DELHI-24

3 S.D.R

4 J.C.D.R.

5 Bar association, CESTAT, New Delhi

6 M.O. 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 -I, NOIDA - 201301 Gautam Budh Nagar, (U.P.)

9 Raghuraman's 44-B, Regal Flat, Shipra Suncity, Indrapuram - 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), Thvagarava 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-15

15 Office Copy

16 Guard file


Assistant Registrar
(Customs Appeal Branch)

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

Customs Stay Application No.2156 of 2008-Customs-Br.
In Customs Appeal No.699 of 2008-Customs Branch

[Arising out of Order-in-Original No.36/CE/ADC/LDH/2007 dated 30.03.2007
passed by the Addl. Commissioner of Central Excise, Ludhiana]

Date of Hearing/ Decision:04.12.2008

For approval and signature:

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

1. Whether Press Reporters may be allowed to see
CESTAT (Procedure) Rules, 1982.
2. Whether it should be released under Rule 27 of the
CESTAT (Procedure) Rules, 1982 for publication
in any authoritative report or not?
3. Whether Their Lordships wish to see the fair copy
of the Order?
4. Whether Order is to be circulated to the Departmental
authorities?

: m.
:
: ym

Shri Sushil Kumar

...Appellant

[Rep. by Ms. Asmita Nayak, Advocate]

Vs.

CC, Chandigarh

...Respondent

[Rep. by Shri Vijai Kumar, DR]

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

Final
Stay Order No C/656/08
Order No.....C/656/08...../Dated:04.12.2008
C/351/08

Per P.K. Das:

As the issue involved in this case is in narrow compass and, therefore, the appeal is taken up for hearing with stay application after waiving pre-deposit of penalty.

2. After hearing both the sides and on perusal of the records, we find that the appeal was dismissed before the Commissioner (Appeals) as time barred.

3. Ld. Advocate submits that there was a delay of 9 days. She submits that the appellant and the other co-appellants filed writ application before the Hon'ble High Court of Punjab & Haryana against the Adjudication Order. The Hon'ble High court had dismissed the writ petition and granted liberty to file appeal before the appropriate forum. She submits that the other co-appellants and the appellant filed a joint petition for condonation of delay before the Commissioner (Appeals). She placed the copy of the application filed before the Commissioner (Appeals). The appeal was dismissed by the Commissioner (Appeals) on the ground that the appellant had not filed any application for condonation of delay.

4. We find that the applicant filed a joint petition for condonation of delay with the co-appellants. It is seen that the appellant preferred a writ petition before the Hon'ble High Court of Punjab & Haryana, therefore,

the delay was occurred. In view of that, the delay in filing of the appeal is condoned. As the matter was decided by the Commissioner (Appeals) without going into merits, we find that it is fit case for remand to the matter to the Commissioner (Appeals) to decide on merit. Accordingly, the impugned order is set aside and the matter is remanded back to the Commissioner (Appeals) to decide on merit. The appeal is allowed by way of remand. The stay application is disposed of.

Order dictated & pronounced in open court on 4.12.2008.

(M. Veeraiyan)
Member (Technical)

Ckp.

(P.K. Das)
Member (Judicial)