

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

Appeal No. E/3837/2005-SM[BR]

Date 11/01/2008

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

To :  
M/S JINDAL PIPES LTD  
JINDAL NAGAR, GHAZIABAD

M/S JINDAL PIPES LTD

Appellant

Vs

C.C.E MEERUT-II

Respondent

I am directed to transmit herewith a certified copy of Final order No. 50/2008-SM[BR] dated 30.10.2007  
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

  
Assistant Registrar  
(SM Appeal Branch)

**Copy to :**

1. Respondent

C.C.E MEERUT-II

SAHEED PARK, NEAR ASHOK KI LAT, DELHI ROAD,  
MEERUT (U.P.)

2. Adv. / Consult

MR. RAJESH CHHIBBER

FA/9, NEW KAVI NAGAR, GHAZIABAD

3. S.D.R.

4. ~~J.C.D.R.~~

5. Bar association, CESTAT, New Delhi

6. M/s. Deeparchi Publications, M-93, marg. 43, saket, New

7. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah

8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301

9. R.Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -

10. Nidheshak publications, I.P.Estate, new Delhi

11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,

12. Co, Law Institution

13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070

14. Office Copy

15. Guard file

  
Assistant Registrar  
(SM Appeal Branch)

**IN THE CUSTOMS, EXCISE & SERVICE TAX  
APPELLATE TRIBUNAL  
West Block No. 2, R.K. Puram, New Delhi – 110 066.  
Principal Bench, New Delhi**

**COURT NO. III**

**Excise Appeal No. 3837 of 2005 – SM (BR)**

[Arising out of the Order-in-Appeal No. 08/CE/MRT-II/2005 dated 22/09/2005 passed by The Commissioner of Central Excise (Appeals), Meerut – II.]

For Approval and signature :

**Hon'ble Mr. P.K. Das, Member (Judicial)**

- 
1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? :
  2. Whether it would 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? :
  4. Whether order is to be circulated to the Department Authorities? :

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M/s Jindal Pipes Ltd.

Appellant

Versus

CCE, Meerut – II

Respondent

**Appearance**

Shri Rajesh Chhiber, Advocate – for the appellant.

Shri A.K. Rastogi, Authorized Representative (SDR) – for the Respondent.

CORAM : Hon'ble Shri P.K. Das, Member (Judicial)

DATE OF HEARING : 30/10/2007.

Final Order No. 50108-5M(BR) Dated : 30/10/07

Per. P.K. Das :-

Heard both sides and perused the record.

2. The relevant facts of the case are that the appellant received the adjudication order on 18/03/2005. Thereafter, the adjudicating authority issued corrigendum order on 08/04/05. The appellant filed the appeal before the Commissioner (Appeals) against the adjudication order along with corrigendum order on 20/06/05. The Commissioner (Appeals) rejected the appeal as time barred following the date of receipt of the adjudication order.

3. The learned advocate submits that this Tribunal in the case of **Fouress Engineering (I) Limited vs. CCE,**

**Bangalore – II** as reported in **2006 (74) RLT 56 (CESTAT-Ban.)** held that time limit for filing appeal is to be computed from the date of receipt of corrigendum to impugned order and not from date of original order.

4. The learned DR reiterates the findings of the Commissioner (Appeals).

5. After hearing both the sides and on perusal of the records, it is seen that the Tribunal in the case of Fouress Engineering (I) Limited (Supra) held that time limit for filing appeal to be computed from date of receipt of corrigendum to impugned order. The relevant portion of the said decision is reproduced below :-

“4. On a careful consideration, we find that the appeal has been filed within the period of limitation. The limitation ought to have been reckoned from the date of Corrigendum and not from the date of the original order. In this case, the appeal has been filed within time from the date of Corrigendum. Respectfully following the ratio of the cited Tribunal’s order, we hold that there was no delay in filing the appeal before the

Commissioner (Appeals). As the learned Commissioner had not decided the case on merits, therefore, the Miscellaneous Application, Stay Application and appeal are allowed by remand to the Commissioner (A) to decide the case on merits within four months from the receipt of this order.”

6. In view of the above decision of the Tribunal, the limitation starts from the date of receipt of corrigendum order. In this context, the learned DR pointed out that by taking into account of the receipt of corrigendum order, there is delay of 12 days. The learned advocate fairly submits that the such delay was occurred due to wrong noting of date of receipt by his clerk. It is seen that same plea was also before the Commissioner (Appeals). The Commissioner (Appeals) has observed that no reasonable explanation has been given in delay in filing the appeal. It is well settled by series of decisions that due to lapse on the part of the advocate and his clerk, the litigant should not suffer. Therefore, the delay of 12 days of filing appeal before the Commissioner (Appeals) is condoned. 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.

(Dictated and pronounced in open court)

PK

**(P.K. Das)**  
**Member (Judicial)**