

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

Appeal No. ST/770 /2007, ST/COD/351/2007, ST/STAY/2904/2007-SM

Date 28/01/2008

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

To :
M/S EMA INDIA LTD.
C-37, PANKI INDL. AREA, P.O. UDYOG NAGAR,
KANPUR
208022

M/S EMA INDIA LTD.

C.C.E. KANPUR

Appellant


Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No188/2008-SM[BR&M/30/08&S/59/2008. dated 24.1.2008 passed by the Tribunal under Section 129, (B) of the Customs Act, 1962 & Financial Act 1994 relating to Service Tax


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
C.C.E. KANPUR
117/7, SARVODAYA NAGAR, KANPUR 208005.
2. Adv. / Consult
MR.ASHUTOSH
CHAMBER NO.143, PATIYALA HOUSE COURT, NEW DELHI
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, NEW DELHI
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

**Service Tax Condonation of Delay application No. 351 of
2007-SM(BR), Stay Application No. 2904 of 2007 and Appeal
No. 770 of 2007-SM(BR)**

(Arising out of Order-in-Revision No. 02/2007-2008 dated 16.4.07 passed by the
Commissioner, Central Excise, Kanpur)

For approval and signature

HON'BLE MR. S.S. KANG, VICE PRESIDENT

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?	NO
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/s Ema India Ltd.

Appellant

Vs.

CCE, Kanpur

Respondent

Appearance

Shri Ashutosh Agarwal, Advocate

- For appellant

Shri B.S. Suhag, DR

- For respondent

CORAM:

HON'BLE MR. S.S. KANG, VICE PRESIDENT

Date of Hearing: 24.1.2008

Final Order No. 188/08-SM(BR) dated 24-1-08
MISC order No 30/08-SM(BR) and stay order No 59/08-SM(BR)
Per S.S. Kang:

The applicant filed this application for condonation of delay in filing
the appeal. In view of the facts and circumstances of the case, the delay
in filing the appeal is condoned.

2. The appellant filed this appeal against the review order passed by Commissioner of Central Excise whereby penalties imposed under Section 76 and 78 of the Finance Act were enhanced.

3. The adjudication order passed by the Assistant Commissioner of Central Excise was challenged by the respondent and the Commissioner (Appeals) vide order dated 30.3.07 remanded the matter to the adjudicating authority. In remand proceedings, the adjudicating authority vide order dated 28.9.2007 dropped the proceedings. As the proceedings in respect of demand of Service Tax is already dropped by the adjudicating authority, therefore, the enhancement of penalty is under review proceedings will not survive. The impugned order is set aside and the appeal is allowed.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

RM