

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/420 /2007 – SM[BR]

Date 21/10/2008

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

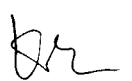
To :
M/S RAJASTHANI ENGG. WORKS
TARA NAGAR ROAD, SADULPUR (RAJGARH), DISTT.
CHARU (RAJASTHAN)
M/S RAJASTHANI ENGG. WORKS

Appellant

Vs
Respondent

C.C.E. JAIPUR

I am directed to transmit herewith a certified copy of Final order No. 1387 / 2008 - SM[BR] dated 17.9.2008
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. JAIPUR

NCRB, STATUE CIRCLE, C-SCHEME, JAIPUR

2. Adv. / Consult SHRI C.S. ARYA CONSULTANT
C/O APPELLANTS;-----

3 S.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 Puniabi Bagh, New Delhi - 110026

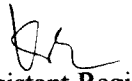
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thvagarava Road, T. Nagar, Chennai

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-1

15 Office Copy

16 Guard file


Assistant Registrar
(SM Appeal Branch)

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

Excise Appeal No.420 of 2007-SM (BR)

[Arising out of common Order-in-Appeal No.281/GRM/CE/JPR-1/2006 dated
5.12.2006 passed by the Commissioner of Central Excise (Appeals), Jaipur]

Date of Hearing/ Decision:17.09.2008

For approval and signature:

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

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- | | | |
|--|---|-----|
| 1. Whether Press Reporters may be allowed to see
CESTAT (Procedure) Rules, 1982. | : | } m |
| 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/s. Rajasthan Engg. Works ...Appellants
[Rep. by Shri C.S. Arya, Consultant]

Vs.

CCE, Jaipur ...Respondents
[Rep. by Shri S. Gautam, DR]

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

Final Order No.1.387/08-SM (BR)
Dated:17.09.2008

Per P.K. Das :

Heard both sides and perused the records.

2. On perusal of the order of the Commissioner (Appeals), it is seen
that the Appellant received the adjudication Order on 5.4.2006 and filed

appeal before the Commissioner (Appeals) on 8.8.2006. The Commissioner (Appeals) rejected the appeal on the ground of time bar. The Commissioner (Appeals) observed that in terms of Section 35 B of the Central Excise Act, 1944, the Commissioner (Appeals) may condone the delay in filing appeal for further period of thirty days and in the present case, the delay is more than 2 months.

3. Ld. Advocate submits that the delay was occurred due to illness of the authorised Representative of the Appellant. He further submits that there is strong merit in the appeal.

4. Ld. DR placed the decision of the Hon'ble Supreme Court in the case of Singh Enterprises Vs. reported in 2008 (221) ELT 163 (SC), wherein it has been held that the that the Commissioner (Appeals) has no power to allow appeal presented beyond the 30 days.

5. In view of the decision of the Hon'ble Supreme Court in the case Singh Enterprises (supra), I find that there is no reason to interfere the order of the Commissioner (Appeals). Accordingly, the appeal filed by the Appellant is rejected.

Order dictated & pronounced in open court on 17.09.2008.

(P.K. Das)
Member (Judicial)

Ckp.