

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/729 /2008-SM[BR] E/STAY/ 731/2008-SM[BR]

Date 30/05/2008

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

To :
M/S ALPHA DRUGS & PHARMACEUTICALS
176, SECTOR-3, HSIDC,
KARNAL, HARYANA.
M/S ALPHA DRUGS & PHARMACEUTICALS

C.C.E. PANCHKULA

Appellant

Vs
Respondent

I am directed to transmit herewith a certified copy of **Final order No.838 /2008 -SM[BR]&S/355/2008** dated 2.5.2008 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. PANCHKULA

SCO NO. 407 AND 408, SECTOR 8, PANCHKULA (HARYANA) 134119.

2. Adv. / Consult

MR.R.K.PHILIPS

M/S SIRMACS CONSULTANCY SERVICES, UG-3, PRAGATI TOWER, 26, RAJENDRA PLACE, N.DELHI.

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 Delhi -

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 60017

13. Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kunj, New Delhi - 110070

14. Office Copy

15. Guard file


Assistant Registrar
(SM Appeal Branch)

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

Excise Stay Application No.731 of 2008
in Appeal No.729 of 2008-SM (BR)

[Arising out of Order-in-Appeal No.01/KKG/PCK/2008 dated 7.1.2008
passed by the Commissioner of Central Excise (Appeals), Gurgaon]

Date of Hearing/ Decision:2.5.2008

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. Alpha Drugs & Pharmaceuticals Appellants
(Rep. By Shri R.K. Philips, Advocate)

Vs.

CCE, Panchkula Respondents
(Rep. By Shri S.L. Meena, SDR)

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

Date of order/Date of decision:2.5.2008

Final Stay order No. 355/08-SM(BR)
ORDER No. 332/08-SM(BR)/Dated:2.5.2008

Per P.K. Das:

Heard both sides and perused the records.

2. As the issue involved in this case is in narrow compass, the appeal is taken up for hearing after allowing the stay application. It is seen from the order of the Commissioner (Appeals) that the Appellant filed the appeal after 94 days of the date of communication of the Adjudication Order. It is seen that the statutory limit of filing appeal is 60 days and the Commissioner (Appeals) may condone the delay of 30 days. The Commissioner (Appeals) rejected the appeal as the delay is more than 30 days in filing the appeal, which is beyond the competency of the Commissioner (Appeals).

3. Ld. DR submits that the Hon'ble Supreme Court in the case of Singh Enterprises Vs. CCE, Jamshedpur reported in 2009 (221) ELT 163 (SC) held that the Commissioner (Appeals) is not competent to condone the delay beyond 30 days.

4. So, I do not find any 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 2.5.2008.

(P.K. Das)
Member (Judicial)

Ckp.