

**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/1147/2008-SM[BR] E/ STAY /1125 /2008-SM[BR]

Date 28/07/2008

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

To :  
MR. D.N.SINGLA. C/O BHAWANIWALA PLASTIC  
PVT. LTD.  
491, SECTOR-13,  
HISAR (HARYANA)  
MR. D.N.SINGLA. C/O BHAWANIWALA PLASTIC  
PVT. LTD.

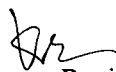
Appellant

Vs  
Respondent

C.C.E. JAIPUR I

n directed to transmit herewith a certified copy of Final order No. 1099/ 2008 –SM[BR]& S/ 440/ 2008 dated 18.7.2008

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 I

N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME, JAIPUR 302005.

**2. Adv. / Consult**

MR.K.K.GUPTA

B-137, IIND FLOOR, RAMPRASTHA, GHAZIABAD

**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)

**CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,**  
West Block No.2, R.K Puram, New Delhi-110066

**COURT-IV**

Date of hearing: 18.7.2008

E/Stay/1125/2008-SM(BR)  
E/Appeal No. 1147/2008-SM(BR)

(Arising out of Order –in-Appeal No. 48(RKS)-CE/JPR-I/2008 dated 07.3.2006 passed by the Commissioner (Appeals-I) Central Excise & Customs, Jaipur-I)

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 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?
- 

Mr. D.N. Singh

Appellant/Applicant  
(Rep. by Shri K.K. Gupta, Advocate)

Vs.

C.C.E. Jaipur-I

Respondent  
(Rep. by Shri Sansar Chand, DR)

Coram: Hon'ble Mr. P.K. Das, Member (Judicial)  
Stay order No. 440/08-SM(DR)  
Final Order No. 1099/08-SM(DR)

Per: P.K. Das:

After hearing both the sides and on perusal of records, I find that the issue involved in this case is in narrow campus and therefore, after granting stay, the appeal is taken up for hearing.

2. By the impugned order, the Commissioner (Appeals) dismissed the appeal for non compliance of Stay Order dated 04.2.2008, whereby the Appellant was directed to pre-deposit the entire amount of penalty of Rs. 2,00,000.00 It is seen from the stay order dated 04.2.2008 of the Commissioner (Appeals) that the Appellant himself admitted the manipulation of records to avail the irregular Cenvat Credit.

3. The Id. Advocate submits that the irregular Cenvat Credit was availed in the year 1995 and the company reversed the entire amount of credit of Rs 18.00.000/- in the same year. He further submits that the show cause notice was issued in the year 2000 for appropriation of the said amount and to impose penalty. He also submits that the Appellant was a General Manager (Purchase) of another group

company and he has no connection with the main noticee (i.e the Company). He also submits that the Appellant is out of employment and has no means to pay the dues.

4. After considering the facts and circumstance of the case and the financial position, I direct the Appellant to deposit a sum of Rs. 50,000.00 within 8 (eight) weeks and to report compliance before the Commissioner (Appeals) on 30<sup>th</sup> September.2008. Upon filing of the compliance report on the said date, the Commissioner (Appeals) will hear the appeal on merits. If the Appellant fails to file the compliance report on the said date, the appeal will be dismissed. The appeal is disposed on in the above terms.

(Dictated and pronounced in the open court.)

(P.K. Das)  
Member (Judicial)

K. Gupta