

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/1227/2008-SM[BR] WITH E /STAY /1201/ 2008 -SM[BR]

Date 30/07/2008

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

To :
THE GENERAL MANAGER, THE KESAR
ENTERPRISES LTD.
BAHERI, DISTT. BAREILLY UTTAR PRADESH.

THE GENERAL MANAGER, THE KESAR
ENTERPRISES LTD.

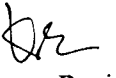
C.C.E. MEERUT II

Appellant

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 1108 /2008 -SM[BR]&S/ 448 /2008 dated 25.7.2008

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. MEERUT II

OPP. SAHEED PARK (NEAR ASHOK KI LAT) DELHI ROAD, MEERUT (UP)

2. Adv. / Consult

MR.KAPIL VAISH

B-51, BUTLER PLAZA, 95, CIVIL LINES, BAREILLY.

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
NEW DELHI**

PRINCIPAL BENCH - COURT NO. 1

**Excise Appeal No. 1227 of 2008 with
Excise Stay Application No. 1201 of 2008**

(Arising out of Order-in-Appeal No. 54-CE/MRT-II/2008 dated 31.03.2008
passed by the Commissioner of Central Excise (Appeals), Meerut).

**DATE OF HEARING : 25.07.2008
DATE OF DECISION : 25.07.2008**

FOR APPROVAL AND SIGNATURE :

HON'BLE MS. JYOTI BALASUNDARAM , 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 ?.	No
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 ?	Seen
4.	Whether Order is to be circulated to the Departmental Authorities?	Yes

M/s Kesar Enterprises Ltd.

....

Appellants

(Rep. by Sh. Kapil Vaish, C.A.)

VERSUS

CCE, Meerut-II

....

Respondent

(Rep by Sh. Sansar Chand, SDR)

CORAM : HON'BLE MS JYOTI BALASUNDARAM, VICE-PRESIDENT

Stay order no. 448/08- SM (BR)
Final **ORDER NO.** 1108/08 SM (BR)

PER JYOTI BALASUNDARAM :

In this case the adjudicating authority confirmed the duty demand of Rs. 3,63,455/- and Rs. 23,285/- against the appellants herein and imposed penalty of equal amounts. Aggrieved by this order, the assessee filed an appeal before the Commissioner (Appeals) along with an application for Condonation of Delay of about eight months. The Commissioner (Appeals) rejected the Condonation of Delay application on the ground that the appeal had been filed before him beyond the period of 30 days from the expiry of the statutory period of limitation of 60 days, which he was not empowered to condone, and as a consequence he rejected the appeal as barred by limitation. Hence this appeal before the Tribunal along with stay application.

2. On hearing both sides, I note that it has been settled by series of decisions including the decision of the Larger Bench of the Tribunal and the judgment of the Hon'ble Delhi High Court in **M.R. Tobacco Pvt. Ltd. vs Union of India**, 2004 (178) ELT 137 (Del.), that the Commissioner had no power to condone the delay beyond the further period of 30 days from the expiry of time within which an appeal ought to have been filed. In this view of the matter, the appeal along with the stay application is rejected.

(Dictated and pronounced in the open Court on the day of 25th July, 2008)

(JYOTI BALASUNDARAM)
VICE-PRESIDENT