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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/2594/2006-2597/2006- SM[BR] Date 05/09/2008

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

To :
M/S OPEL TELECOMMUNICATION LTD.
H.O. 147, ZONE -I, M.P. NAGAR, NEAR JYOTI
CINEMA, BHOPAL M.P.

M/S OPEL TELECOMMUNICATION LTD. Appellant
Vs
C.C.E. BHOPAL Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1285 – 1288 / 2008 –SM [BR] dated 22.8.2008 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. BHOPAL
   48, ADMINISTRATIVE AREA, AREA HILLS. HOSHANGABAD ROAD, BHOPAL
2. Adv. / Consult
   MR.P.C.KASHIV
   E-3/49,STOP NO 10,KAMDAR MARKET,BHOPAL
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 Publictions (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. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15
15. Office Copy
16. Guard file

2. M/S OPTEL TELECOMMUNICATION LTD.
   H.O. 147, ZONE -I, M.P. NAGAR, NEAR JYOTI CINEMA, BHOPAL M.P.
3. M/S OPTEL TELECOMMUNICATION LTD.
   E1, NEW INDL. AREA NO 2, MANDIDEEP, DISTT. RAISEN M.P.
4. OPTEL TELECOMMUNICATION LTD.
   H.O. 147, ZONE -I, M.P. NAGAR, NEAR JYOTI CINEMA, BHOPAL M.P.

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: 22.8.2008

Appeal No.E/2594-2597/2006-SM(BR)

(Arising out of Order-in-Appeal No. 82-85-CE/BPL/2006 dated 03.4.2006 passed by the Commissioner (Appeals) Central Excise, Bhopal)

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 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? NA
3. Whether Their Lordships wish to see the fair copy of the Order?
4. Whether Order is to be circulated to the Departmental authorities? Yes.

M/s Opel Telecommunication Ltd. Appellant/Applicant
(Rep. by P.C. Kashiv, Consultant)

Vs.

CCE, Bhopal Respondent
(Shri S. Gautam, DR)

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

Final Order No. 1285 – 1288/2008

Per: P.K. Das

All these appeals are arising out of a common order and therefore, all are being taken up together for disposal.

2. After hearing both the sides and on perusal of the records, it is seen that the Commissioner (Appeals) rejected the appeal on account on time bar. It has been observed that the appeals filed on 10.2.2006 i.e. after a gap of nearly nine months of the issue of orders. The Appellant contended that their factory was under lock-out as declared on 31.5.2005. It has been contended that the impugned Adjudication Order could be traced in the factory only on 12.12.2005.

3. The ld. Advocate on behalf of the Appellant submits that the affairs of the Appellant's Company have been entrusted by Govt. of M.P. to M.P. State Electronics Development Corp. Ltd. He further submits that the Appellant had no knowledge of service of the Adjudication Order. On 12.12.2005 they traced the Adjudication Order at the factory was closed. According to him the date of 12.12.2005 would be taken into account for communication of the order.

4. On perusal of the records, it appears that adjudication orders were served at Appellant's factory, and such service is valid. The Hon'ble Supreme Court in the case of Singh Enterprises Vs. CCE, Jamshedpur reported in 2008 (221) E.L.T. 163 (S.C.) held that Commissioner (appeals) has no power to condone the delay beyond 30 days after the normal period of limitation of 60 days. So, I do not find any reason to interfere the Order of the Commissioner (Appeals). Accordingly, all these appeals are rejected.

(Dictated and pronounced in the open court.)

(P.K. Das)
Member (Judicial)

K. Gupta