

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/3917/2006-3918/2006-SM[BR]

Date 28/04/2008

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

1. M/S MADHAV UDYOG PVT. LTD.
2. SHRI MANISH GOYAL DIRECTOR
TALWARA ROAD, SIRHIND SIDE, MANDI
GOBINDGARH,
PUNJAB

M/S MADHAV UDYOG PVT. LTD.

C.C.E. CHANDIGARH

Appellant

Vs

Respondent

I am directed to transmit herewith a certified copy of Final order No. 652 -653 /2008 -SM[BR] dated 10.4.2008
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. CHANDIGARH

C.R. BUILDING, PLOT NO. 19, SECTOR 17-C, CHANDIGARH
160017

2. Adv. / Consult

Shri, Bipin Garg Adv.
B-1/1289-A, Vasant Kunj New Delhi - 70.

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
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

E/Appeal Nos.3917-3918/2006-SM

(Arising out of order in appeal No. 798-799/CE/Chd/06 dated 7.9.06 passed by the Commissioner of Central Excise (Appeals), Chandigarh)

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?

N^o

1.M/s.Madhav Udyog Pvt Ltd

Appellant

2.Mr Munish Goyal

(Rep. by Shri Atul Gupta, Co. Secy)

Vs

CCE, Chandigarh

Respondent

(Rep. by Shri B.S. Suhag, DR)

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

Date of Hearing: 10.4.2008

Final Order No. 652- 653/2008-SM(BR)

Per P.K. Das:

Heard both sides and perused the records.

2. Common issue is involved in both the appeals and, therefore, they are being taken up together for disposal.

3. It is seen from the impugned order of the Commissioner (Appeals) that the Appellants filed appeals beyond the period of 30 days eligible for condonation of delay in filing the appeal under Section 35(1) of Central Excise Act, 1944. The learned Advocate submits that the Appellants failed to file the appeals within the stipulated period due to accident and hospitalization of the Accountant. He submits that the delay was caused in ^{due to} unavoidable circumstances and therefore, the delay in filing the appeal should be condoned on humanitarian ground.

4. The learned DR submits that the issue is already settled by the Hon'ble Supreme Court in the case of Singh Enterprises Vs CCE Jamshedpur reported in 2008 (221) ELT 163 (SC). The Hon'ble Supreme Court held that the Commissioner (Appeals) has no power to condone the delay of over a period of 30 days under Section 35 of Central Excise Act, 1944. In view of the decision of the Hon'ble Supreme Court, I do not find any reason to interfere with the order of the Commissioner (Appeals). Accordingly, both the appeals are rejected.

(Order dictated and pronounced in the open Court).

MPS*

(P.K. Das)
Member(Judicial)