TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

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/636 /2008-SM[BR] E/ STAY/ 612 /2008-SM[BR] Date 06/05/2008

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

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

C.C.E. CHANDIGARH Appellant

Vs

M/S JCBL LTD. UNIT-II Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 705 /2008 –SM[BR]&S/305/2008-SM dated 22.4.2008 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
   M/S JCBL LTD. UNIT-II
   VILL. SATARPUR, LALRU,
   DISTT- MOHALI.
2. Adv. / Consult SHRI GAGAN KOHIL ADV.
   394, SECTOR 30A, CHANDGARH
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. Office Copy
15. Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATETRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
COURT NO.III

Excise Stay No. 612 of 2008 with Excise Appeal No. 636 of 2008-SM (BR)
[Arising out of order-in-appeal No. 130/CE/CHD/2008 dated 12.02.2008 passed by the Commissioner (Appeals) Central Excise, 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?	:	N
3. Whether Their Lordships wish to see the fair copy of the Order?	:	
4. Whether Order is to be circulated to the Departmental authorities?	:	

CCE, Chandigarh ....Appellants
Rep. by Mr. S.L. Meena, DR.

Vs.

M/s JCBL Limited ...Respondent
Rep. by Mr. Gagan Kohli, Advocate

Date of Hearing: 22.04.2008

Coram: Hon'ble Mr. P. K. Das, Member (Judicial)
Stay order No. 305/08-SM(BR)
Final Order No....705/08-SM(BR) Dated: 22.4.2008

Per P.K. Das:

Heard both sides and on perused the records.

2. The issue involved in this case is in narrow compass and, therefore, the appeal is taken up for hearing.

3. The issue involved in this case is demand of interest on the differential duty paid on the basis of supplementary invoice on account of revision of rates in

respect of the goods already cleared from their factory premises. The Tribunal in the case of CCE, Aurangabad vs. Rucha Engineering Pvt. Ltd., reported in 2006 (206) ELT 278 held that interest is not leviable on payment of differential duty paid on the basis of supplementary invoices. The Hon'ble Bombay High Court upheld the decision of the Tribunal as reported in 2008 (223) ELT 161 (Bom.) in the case of CCE, Aurangabad vs. Rucha Engineering Pvt. Limited. The relevant portion of the decision of the Hon'ble Bombay High Court is reproduced below.

> 5. Learned Assistant Solicitor General Shri Sharma vehemently urged that if there is time-gap between the date on which the differential rates applicable with retrospective effect were learnt and the date on which the duty was paid, assessee would be liable to pay interest. Eventually, either on going through the order in original, dated 30.6.2004 passed by the Assistant Commissioner, Central Excise and Customs, Aurangabad or upon going through the text of the show cause notice-cum-demand dated 26.4.2004, a copy of which is produced for ready reference (marked "X" for identification purposes), there is nothing to indicate that there was any time-gap between the date on which the revised rates applicable with retrospectively effect were learnt by the Assessee and the date on which differential duty was paid. Had that been the case, the levy of interest as under Section 11AB could have been considered because of delayed payment of duty, but this is the case wherein the Assessee upon learning that the rates of the goods cleared were revised/ escalated and therefore, they are liable to pay more duty than already paid at the time of clearance of the goods, has voluntarily paid the duty. Thus, there is no delay.
>
> This is, therefore, not a case where duty of excise has not been paid or short-paid. We are, therefore, inclined to concur with the view taken by the Commissioner (Appeals) and the CESTAT, which calls for no interference".

4. It is seen that on the identical issue in the Respondent's own case, the Tribunal vide final order No. 540-542/08-SM(BR) dated 26.3.2008 rejected Revenue's appeal. Accordingly, the appeal filed by the Revenue is rejected. Stay application is disposed of.

Order dictated & pronounced in open Court on 22.4.2008.

(P.K. DAS)
Member (Judicial)

ckp.