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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
CUSTOMS APPEAL BRANCH

Appeal No. ST/15 /2009 - CU[DB] Date 16/03/2009
ST/S/38/09

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

To :
M/S SPEEDWAYS TYRE SERVICE,
SUCHI PIND ROAD, BYE PASS, G.T.ROAD,
JALANDHAR.
M/S SPEEDWAYS TYRE SERVICE, Appellant
Vs
C.C.E. LUDHIANA Respondent

I am directed to transmit herewith a certified copy of **Final order No.** ST/94 2009 CU[DB] dated 24.02.09 passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

Alongwith Stay Order No ST/86/09

Assistant Registrar
(Customs Appeal Branch)

Copy to :
1. Respondent
C.C.E. LUDHIANA
CENTRAL EXCISE HOUSE, 'F' BLOCK, RISHI NAGAR, LUDHIANA 141001 (PUNJAB)
2. Adv. / Consult
MR.SUDHIR MALHOTRA.
13-R, HUKAM CHAND COLONY, NEAR D.A.V COLLEGE, JALANDHAR
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 - 3
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
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

Assistant Registrar
(Customs Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
BENCH-DB

Service Tax/Stay No.ST/S/38/2009-CUST
in Appeal No.ST/15/2009

[Arising out of Order-in-Appeal No.361/CE/Ldh/08 dated 07.11.2008 passed by the Commissioner (Appeals), Chandigarh].

Date of Hearing:24.02.2009

Speedways Tyre Service, ...Appellant

Vs.

CCE, Ludhiana ... Respondent

Present for the Appellant :Shri S. Malhotra, Advocate
Present for the Respondent :Shri Fateh Singh, D.R.

Coram: Hon'ble Mr.D.N.Panda, Judicial Member
Hon'ble Mr. Rakesh Kumar, Technical Member

Final **ORDER NO.** ST/94/09 **DATED:24.02.2009**
Stay Order No ST/86/09
PER: D.N.PANDA

Ld. Counsel Shri Malhotra submits that the appellant was prevented to reply to the show-cause-notice, since the unit was closed. He has no hesitation to submit entire facts & figures before the ld. Adjudicating Authority, if an opportunity of hearing is granted by the said authority. In the absence of hearing of the appellant, an order of adjudication was passed levying service-tax demand of Rs.1,65,764/- and other consequences ~~if~~ for failure to pay Service Tax by the appellant under the have flown as are apparent from page 7 of the order of adjudication. Being aggrieved by the order, the appellant went in appeal before the ld. Commissioner (Appeals). That authority directed to make pre-deposit of nearly 50% of the tax demanded and penalty demanded. The appellant being further aggrieved has come to this Forum ~~praying~~ with the same grievance that course of natural justice was not followed by both the ~~parties~~ authority below for which appellant is suffering. Therefore, he prays that if the appellant is given an opportunity of appearance before the adjudicating authority, the appellant shall comply with the requirement of law as well as show cause notice.

2. Ld. DR vehemently objects to the submissions of the ld. Counsel and submits that ld. Appellate authority below has passed ~~a~~ appropriate order.

3. Heard both sides and perused the record. After hearing both the sides, we are of the view that violation of natural justice cannot be said to be curable defects. ~~and we do not have any education to send the matter back to grant an opportunity of hearing to the appellant by the ld. Adjudicating authority.~~ Accordingly, we dispense pre-deposit and dispose of the appeal sending the matter back to the ld. Adjudicating authority. The appellant shall make his appearance before the Adjudicating

Authority on 14th of May, 2009 with reply to show-cause-notice, praying the ld. Adjudicating authority to fix a date for hearing. If this is done, ld. Adjudicating authority shall fix a date of hearing, hear the appellant and pass an order that may required under the law.

4. In the result, both the Stay application and appeal are dealt with in the manner aforesaid.

[Pronounced in the open Court during the course of hearing].

(D.N.PANDA)
JUDICIAL MEMBER

(RAKESH KUMAR)
TECHNICAL MEMBER

Anita