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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/612 /2009 - CU[DB]
ST/S/2347/09

Date 07/12/2009

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

To :
M/S GEE CITY BUILDERS (P) LTD
SCO 358-359, SECTOR 34, CHANDIGARH.

M/S GEE CITY BUILDERS (P) LTD — Appellant

Vs

C.C.E. CHANDIGARH — Respondent

I am directed to transmit herewith a certified copy of **Final order No.** ST/269/ 2009 CU[DB] dated 20.11.09 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/376/09

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
   C.C.E. CHANDIGARH
   C.R. BUILDING, PLOT NO. 19, SECTOR 17-C, CHANDIGARH 160017
2. Adv. / Consult
   MR.G.S.BHANGOO
   H.NO. 5, SECTOR-10A, CHANDIGARH.
3. S.D.R
4. J.C.D.R.
5. Bar association, CESTAT, New Delhi
6. Director Publications, Customs, Excise. I.P. Estate, New Delhi
7. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
8. Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9. Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10. M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)
11. M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
12. Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
13. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
14. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
15. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
16. Office Copy
17. Guard file

Assistant Registrar
(Customs Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-III

Date of hearing/decision: 20.11.2009

Stay Application No.2347 of 2009 and Service Tax Appeal No.612 of 2009

Arising out of the order in appeal No.18/CE/Chd-II/2009 dated 19.5.2009 passed by the Commissioner (Appeals), Central Excise & Service Tax, Chandigarh II.

For Approval and Signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. D.N.Panda, Member (Judicial)

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	Yes
2	Whether it should be released under Rule 27 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	NO
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 Gee City Builders (P) Ltd. .... Appellants/Applicants

Vs.

C.C.E., Chandigarh II .... Respondent

Appearance:

Shri Vikrant Kackria, Advocate for the appellants/applicants
Shri S.R. Meena, Authorized Departmental Representative (SDR) for the Revenue

Coram: Hon'ble Mr.M. Veeraiyan, Member (Technical)
Hon'ble Mr. D.N. Panda, Member (Judicial)

Final Oral Order No. ST/269/09
Stay Order No ST/376/09

Per M. Veeraiyan:

Heard both sides.

2. In view of the order, we are proposing to pass, we waive pre-deposit of the dues as per the impugned order.

3. Commissioner (Appeals) without going into the merits of the case rejected the appeal of the party on the ground of limitation. It is the case of

the appellant that the order dated 5.8.08 was received by them only on 12.12.2008. The case of the appellant is that there is no delay in filing of appeal. The evidence on the actual date of dispatch or the date of communication is not placed before us. Since the Commissioner (Appeals) has powers to condone the delay up to three months in terms of Section 85 (3) of the Finance Act, we direct the appellant to file an application for condonation of delay, which shall be considered by the Commissioner (Appeals).

4. With the above direction, the order of the Commissioner (Appeals) is set aside and the appeal is allowed by way of remand. Stay petition is also disposed off.

(M. Veeraiyan)
Member (Technical)

(D.N.Panda)
Member (Judicial)

scd/