

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

Appeal No. C/5 /2009 – SM[BR]

Date 19/05/2009

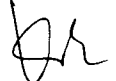
Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S MANSAROVER TRUST
BLOCK-A, DDA COMMERCIAL COMPLEX, RING
ROAD, NARIANA, N DELHI.
M/S MANSAROVER TRUST

C.C. ICD TKD NEW DELHI

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of **Final order No. 389 / 2009 –SM[BR]** dated 25.3.2009
passed by the Tribunal under Section 129, (B) of the Customs Act, 1962 & Financial Act 1994 relating to Service Tax


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

C.C. ICD TKD NEW DELHI

COMMISSIONER OF CUSTOM ICD TKD NEW DELHI

2. Adv. / Consult

MR.PIYUSH KUMAR,ADV

B-25,LAJPAT NAGAR-III,N.DELHI

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 Publications 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 Kuni, 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
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE
TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Customs Appeal No.05 of 2009-SM

[Arising out of Order-in-Appeal No.CC(A)CUs./ICD/498/2008 dated
26.11.2008 passed by the Commissioner of Customs (Appeals), New Delhi]

Date of Hearing/ Decision:25.03.2009

For approval and signature:

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

-
1. Whether Press Reporters may be allowed to see
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?
-

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:
:

M/s. Mansarover Trust

....Appellants

[Rep. by Shri A.K. Mishra, Consultant]

Vs.

CC, New Delhi

...Respondent

[Rep. by Shri S. Gautam, DR]

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

Final Order No. 389/09-SM(CB2)/Dated:25.03.2009

Per P.K. Das:

Ld. Consultant on behalf of the appellant submits that refund claim
was rejected by the Original Authority for non-submission of the original
documents. The Commissioner (Appeals) rejected the appeal as time

barred for delay of 27 days in filing of the appeal. It has also been observed that the appellants had not submitted the original documents despite the hearing fixed on 26th May and 28th May, 2008.

2. After hearing both the sides and on perusal of the records, it appears that the appellant filed original documents in the office of the Commissioner instead of original authority. There was delay in filing appeal before the Commissioner (Appeals) as the appellants approached to the office of Commissioner for getting back the original documents. Hence, the delay in filing appeal should be condoned. In view of that the impugned orders are set aside. The matter is remanded back to the Original Authority to examine the documents and to pass a fresh order in accordance with law. Needless to say that the Original Authority shall give opportunity of hearing before decision. The appeal is allowed by way of remand.

Order dictated & pronounced in open court on 25.03.2009.

(P.K. Das)
Member (Technical)

Ckp.