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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/111 /2009 – SM[BR] Date 29/07/2009

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

To :
M/S AVL TECHNICAL CENTRE PVT. LTD.
PLOT NO. 376-377,PHASE-IV, GURGAON
(HARYANA)-122015

M/S AVL TECHNICAL CENTRE PVT. LTD. Appellant

Vs

C.C. (EXPORT) NEW DELHI Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 837 / 2009 — SM[BR] dated 21.7.2009 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. (EXPORT) NEW DELHI
   AIR CARGO EXPORT, NEW CUSTOM HOUSE, NEW DELHI 110037
2. Adv. / Consult
   MR.ASHOK DHINGRA, ADVOCATE
   SANSTONE CREST, OPP.PARK PLAZA HOTEL, SUSHANT LOK, PH-I, GURGAON-122009.
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
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI

COURT – III

CUSTOMS APPEAL NO. 111 OF 2009-SM

[Arising out of Order-in-Appeal No. CC(A) Cus/EXP/418/2008 dated 10th November, 2008 passed by the Commissioner of Customs (Appeals), New Delhi]

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?	No
2.	Whether it would 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?	Yes

M/s. AVL Technical Centre (P) Ltd., Appellants

Vs.

C.C., New Delhi Respondent

Appearance:

Shri Ashok Dhingra C.A. & Shri Varun Chopra,
Advocate for the appellants;
Shri I.K. Baig, S.D.R. for the Revenue

Coram:

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

Date of hearing/decision: 21st July, 2009

FINAL ORDER NO. 837/2009-SM(BR) **dated** 21.7.09

Per P.K. Das:

The appellants filed this appeal against order of the Commissioner (Appeals) whereby appeal filed by the appellants was rejected as time barred.

2. Learned Advocate submits that there is a delay of 31 days in filing the appeal before the Commissioner (Appeals). He submits that the Commissioner (Appeals) rejected their appeal and did not condone the delay on the ground that he has no power to condone the delay beyond 30 days. Learned Counsel also relied upon the various decisions of the Supreme Court as well as Tribunal.

3. Learned D.R. relied upon the decision of the Hon'ble Supreme Court in the case of Singh Enterprises vs. CCE, Jamshedpur, reported in 2008 (221) ELT 163 (SC).

4. I find that the issue is squarely covered by the decision of the Hon'ble Supreme Court in the case of Singh Enterprises (supra) wherein it has been held that Commissioner (Appeals) is empowered to condone the delay up to 30 days only. In view of that, I do not find any reason to

interfere with the order of the Commissioner (Appeals). Accordingly, appeal filed by the appellants is rejected.

(Dictated & pronounced in the Open Court.)

(P.K. DAS)
MEMBER (JUDICIAL)

RK