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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. E/1161/2009 – SM[BR] E/ STAY / 1146 / 2009-SM[BR] Date 11/08/2009

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

To :
M/S PARMARTH IRON PVT. LTD.
10 KM STONE, NAGINA ROAD, BIJNOR.

M/S PARMARTH IRON PVT. LTD. Appellant
Vs
C.C.E. MEERUT I Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 915 / 2009 –SM[BR]& S/ 416 / 2009 dated 29.7.2009 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
C.C.E. MEERUT I
EXCISE CHOWK,OPPOSITE CHOUDHARY CHARAN SINGH UNIVERSITY MANGAL PANDAY NAGAR, MEERUT - 250005.
2. Adv. / Consult
MR.L.P. ASTHANA & MS REENA KHAIR
R-163, SECOND FLOOR, GREATER KAILASH-1, NEW DELHI - 110 048.
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)
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Assistant Registrar
(SM Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

COURT-IV

Date of hearing/decision: 29.7.2009

Stay Application No.1146 of 2009 and Central Excise Appeal No.1161 of 2009-SM

Arising out of the order in appeal No.16-CE/MRT-I/2009 dated 30.1.2009 passed by the Commissioner (Appeals), Central Excise, Meerut.

Hon'ble Shri M. Veeraiyan, Member (Technical)

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

Vs.

C.C.E., Meerut I .... Respondent

Appearance:

Shri Abhishek Jaju, Advocate for the appellants
Shri Ishkitkhar Baig, Authorized Departmental Representative (SDR) for the Revenue

Coram: Hon'ble Mr. M. Veeraiyan, Member (Technical)

Oral Order No. 915/2009 SM (Br)
S-416/2009 SM (Br)

Per M. Veeraiyan:

After hearing both sides for a while on the stay petition, I deem it proper to finally dispose of the appeal on a short point. Accordingly, I waive pre-deposit of the dues as per the impugned order.

2. Commissioner (Appeals) has dismissed the appeal on ground of limitation without going into the merits of the case. The order of the original authority is dated 1.8.08. It is the case of the appellant that they entrusted the work of filing the appeal to their Counsel who, by mistake, has taken the

date of order as 1.9.08 and that appeal could be filed on or before 1.11.08 and thus filed the appeal on 13.10.08. The appeal should have been filed on or before 1.10.08 and thus there is a delay of 13 days. The reasons for the delay have been placed before the Commissioner (Appeals). However, she has not accepted the explanation and dismissed the appeal as hit by time-bar.

3. Learned SDR reiterates the findings and reasoning of the Commissioner (Appeals).

4. On careful consideration of the submissions from both sides and on perusal of the record, I find that the appellant had no specific reason to deliberately delay in filing the appeal. The explanation offered for the delay in filing appeal appears reasonable. The delay caused due to mistake on behalf of the Advocate who was entrusted the work by the appellant should not lead to denial of opportunity of filing appeal. Further, delay is within the condoning power of the Commissioner (Appeals).

5. In view of the above, I deem it proper that the delay should be condoned and the appeal should be heard by the Commissioner (Appeals) on merits.

6. To enable the same I set aside the order of the Commissioner (Appeals). The Commissioner (Appeals) shall decide the appeal treating the delay as condoned by the Tribunal and after granting a reasonable opportunity of hearing to the appellant. I have not expressed any views on merits of the case.

7. The appeal is allowed by way of remand. Stay petition is also disposed of.

(M. Veeraiyan)
Member (Technical)

scd/