TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

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/2341 – 2342 / 2009-SM[BR] & E/ STAY / 2418-2419 / 2009 –SM[BR] Date 06/10/2009

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

To :
(1-2) M/S TRIVENI ENGG. & INDUSTRIES LTD.
JANSATH ROAD, KHATAULI, DISTT.
MUZAFFARNAGAR (U.P.)
M/S TRIVENI ENGG. & INDUSTRIES LTD. Appellant
Vs
C.C.E. MEERUT I Respondent

am directed to transmit herewith a certified copy of **Final order** No.1188- 1189 / 2009-SM[BR]& S/ 568-569 / 2009dated 18.9.200

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.RAJESH CHHIBBER
FA/9, NEW KAVI NAGAR, GHAZIABAD

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)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, West Block No. 2, R.K. Puram, NEW DELHI

COURT No. III

E/Stay/2418-2419 of 2009-SM in & E/2341-2342 of 2009-SM

[Arising out of Order-in-Appeal No. 61-CE/MRT-I/2009 dated 29.5.2009 passed by the Commissioner (Appeals), Central Excise, Meerut-I]

Dated of hearing/decision: 18th September, 2009

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?	
2.	Whether it would be released under Rule 27 of the 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?	
4.	Whether order is to be circulated to the Departmental authorities?	Yes.

M/s. Triveni Engg. & Inds. Ltd., Appellants

Vs.

CCE, Meerut-I Respondent

Appearance:

Shri Rajesh Chibber, Advocate for the appellants;
Shri Sunil Kumar, JDR for the Revenue

Coram:

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

FINAL ORDER NO. 1188-1189/2009 SM (BR) **dated**

STAY ORDER NO. 568-569/2009 SM (BR)

Per P.K. Das:

The issue involved in this case is in narrow compass and, therefore, appeal itself is taken up for hearing, after granting stay.

2. After hearing both sides and on perusal of the records, it is seen that the Commissioner (Appeals) dismissed the appeal as time barred. It is observed that the appellants filed the appeal beyond 30 days and the Commissioner (Appeals) had no power to condone the delay beyond 30 days under Section 35A of Central Excise Act, 1944. The contention of the learned Advocate is that the person concerned who was looking after excise matters and keeping the records was died. He further submits that there is a delay of one day beyond the stipulated period of 30 days. He submits that delay should be condoned on humanitarian ground.

3. I find that the Hon'ble Supreme Court in the case of Hardeep Synthetic Mills Pvt. Ltd. vs. UOI, reported in 2009 (240) ELT 178 (Guj.) held that the Commissioner (Appeals) has no power to condone the delay beyond 30 days. Hence, I do not find any reason to interfere with the order of the Commissioner (Appeals). Accordingly, both the appeals are dismissed. Stay applications are also disposed of.

(Dictated & pronounced in the Open Court.)

(P.K. DAS)
MEMBER (JUDICIAL)

RK