

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

Appeal No. C/66 /2009 - CU[DB] WITH C/STAY/294/09

Date 20/05/2009

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

To :
M/S K.C.K. LATEX LIMITED (UNIT NO.2)
87-88, SHAHPUR, KALPI ROAD, PANKI,
KANPUR (U.P.)

M/S K.C.K. LATEX LIMITED (UNIT NO.2)

Appellant

C.C.E. KANPUR

STAY ORDER NO.C/82/09

Vs
Respondent

I am directed to transmit herewith a certified copy of **Final order No. C/188/**

2009 CU[DB] dated 14.05.09

passed by the Tribunal under Section 129, (B) of the Customs Act, 1962 & Financial Act 1994 relating to Service Tax


Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent

C.C.E. KANPUR

117/7, SARVODAYA NAGAR, KANPUR 208005.

2. Adv. / Consult

MR.MARS & PARTNERS,ADV & SOLICITORS

A-415, DEFENCE COLONY, LGF, N. DELHI.110024

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 (Harvana)

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Assistant Registrar
(Customs Appeal Branch)

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi - 110 066.
Principal Bench, New Delhi**

COURT NO. II

**Customs Stay Application No. 294 of 2009 in Appeal No. 66 of
2009**

DATE OF HEARING : 13/5/09.

M/s K.C.K. Latex

Appellant

Versus

CC, Kanpur

Respondent

Appearance

Shri Rajiv Tuli, Advocate - for the appellant.

Shri Fateh Singh, Authorized Representative (DR) - for the Respondent.

**CORAM : Hon'ble Shri D.N. Panda, Judicial Member
Hon'ble Shri Rakesh Kumar, Technical Member**

Final Order No. C/188/09 Dated : _____
Stay Order No. C/182/09

ORDER

Per. D.N. Panda :-

Learned Counsel Shri Rajiv Tuli submits that he was under impression that the Bench had directed to make pre-deposit of Rs. 8,00,000/- on the earlier date of hearing i.e. on 18th March 2009. But no such order has been passed ^{except} the order passed showing that the matter adjourned to 13th April 2009 at the request of the learned counsel.

2. We are unable to agree with the learned counsel for the reasons recorded in the order available before us showing no direction of pre-deposit of the amount pleaded today. When we looked into the record, we found that the appeal filed before the learned Commissioner (Appeals) was after 112 days of the date of receipt of the order-in-original. We are unable to convenience ourselves that the Commissioner (Appeals) has any power to condone the delay beyond the statutorily permitted period. To say so, we rely on the Apex Court decision in the case of **Singh Enterprises vs. CCE, Jamshedpur** reported in **2008 (221) E.L.T. 163 (S.C.)**. In view of such a situation, there is no necessity to keep the matter pending merely making stay hearing, since the appellant has already lost his right of appeal before the learned first Appellate Authority itself. Looking into such a factual scenario, we dismiss both the stay application and appeal of the appellant.

(Dictated and pronounced in open court)

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

PK