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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/2007/2007 – SM[BR] Date 21/10/2009

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

To :
RAVI BAJAJ DESIGN PVT. LTD.
300, PRAKASH MOHALLA, EAST OF KAILASH, NEW
DELHI
110065

RAVI BAJAJ DESIGN PVT. LTD. Appellant

Vs

C.C.E. DELHI II Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1296 / 2009 –SM[BR] dated 13.10.2009 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. DELHI II
   C.R. BUILDING, I.P. ESTATE, NEW DELHI 110002
2. Adv. / Consult SHRI K.K. SHARMA ADV.
   A-115, GROUND FLOOR ASHOKA ENCLAVE-II,
   SECTOR-37, FARIDABAD-121003.

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-III

Date of hearing/decision: 13.10.2009

Central Excise Appeal No.2007 of 2007-SM

Arising out of the order in appeal No.15-CE/DLH/2007 dated 27.2.2007 passed by the Commissioner (Appeals), Central Excise, Delhi II.

For Approval and Signature:

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

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?	No.
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

Ravi Bajaj Design (P) Ltd. .... Appellant/applicant

Vs.

C.C.E., Delhi II .... Respondent

Appearance:

Shri K.K. Sharma, Advocate for the appellant
Shri Vijai Kumar, Authorized Departmental Representative (SDR) for the Revenue

Coram: Hon'ble Shri P.K. Das, Member (Judicial)

Oral Order No. 1296/2009 SM (BR)

Per P.K. Das:

The issue involved in this appeal is in a narrow campus. The Commissioner (Appeals) rejected the appeal on the ground of time-bar.

2. After hearing both sides and on perusal of the record, I find that the adjudication order was passed on 1st February 2005. The appellant filed appeal before Commissioner (Appeals) on 6th January 2006. It has been held by the Commissioner (Appeals) that the appeal was filed beyond the prescribed period and therefore, the appeal is not maintainable.

3. The contention of the learned Advocate is that they have not received the adjudication order issued by ordinary post. It is also contended that the issue of order came to their knowledge on the basis of demand notice in terms of the adjudication order. It is also contended that upon receipt of the demand notice the appellant vide letters dated 10.6.06, 31.8.05, 2.9.05 and 27.9.05 requested to provide the certified copy of the order for filing appeal.The main contention of the learned Advocate is that the order was not served in terms of Section 37C of Central Excise Act, 1944.

4. Learned SDR on the other hand submits that it is revealed from the order of the Commissioner (Appeals) that the appellant had knowledge of the adjudication order and therefore, it is not relevant for service of notice as required under Section 37C.

5. I find that the contention of the learned Advocate is that the order was not served as per the provision of law. The appellant also requested to provide a certified copy of the order which was not responded to. The Commissioner (Appeals) has not examined this issue in proper manner. To meet the ends of justice, it is required that the Commissioner (Appeals) should examine as to whether the adjudication order was passed in term of the provision of section 37C of the Act and the other issues.

6. In view of that, the impugned order of the Commissioner (Appeals) is set aside and the matter is remanded back to decide afresh after considering the Act and law in this case. Needless to say that the Commissioner (Appeals) shall give proper opportunity of hearing to the appellant before decision. Appeal is allowed by way of remand.

(P.K. Das)
Member (Judicial)

scd/