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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/433 - 434 / 2009 –SM[BR] Date 29/10/2009

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

To :
(1-2) M/S JAIN ELECTRICALS
1892/05, NEW HARI RAM MARKERT, KATRA BABU
RAM, BHAGIRATH PLACE,
NEW DELHI-110006

M/S JAIN ELECTRICALS Appellant

Vs

C.C. (ICD) NEW DELHI Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1325 – 1326 / 2009-SM[BR] dated 15.10.2009 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. (ICD) NEW DELHI
   ICD, TUGHLAKABAD, NEW DELHI 110020.
2. Adv. / Consult
   MR.A.K.BATRA & ASSOCIATES
   A-36, FIRST FLOOR, RAJOURI GARDEN, RING ROAD, N DELHI.
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

CUSTOMS APPEAL NO. 433-434 of 2009-SM

[Arising out of Order-in-Appeal No. CC(A)Cus./ICD/73/2009 dated 2.4.2009 passed by the Commissioner of Customs (Appeals), New Delhi]

Dated of hearing/decision: 15th October, 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?	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. Jain Electricals — Appellants

Vs.

C.C., New Delhi — Respondent

Appearance:

Shri Chabhi Shek Batra, Advocate for the appellants;
Shri R.K. Saini, SDR for the Revenue

Coram:

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

FINAL ORDER NO. 1325-1326/2009 SM(BR) dated

Per P.K. Das:

Common issue is involved in these appeals and, therefore, both are being taken up together for disposal.

2. In appeal No. C/433/09 the Commissioner (Appeals) dismissed the appeal for delay of 7 days in filing the appeal. In appeal No. C/434/09 the Commissioner (Appeals) rejected the appeal for delay of 37 days in filing the appeal. The Commissioner (Appeals) proceeded on the basis of the record of the Suptd. (Refund), ICD, Tughlakabad, Delhi vide letter dated 30.1.2009. It has been observed that the appellants have not filed any application for condonation of delay in filing the appeal. The appellants in the grounds of appeal before the Tribunal contended that they have received the impugned order on 17.10.2008 in both the cases. Contention of the learned Advocate is that they have filed appeal within stipulated period. In my view, to meet the ends of justice, it is required to verify the records by the Commissioner (Appeals).

3. In view of the above discussion, impugned orders are set aside. The matters are remanded back to the Commissioner (Appeals) to decide afresh after considering the application for condonation of delay. It is clarified that if the appellants have not filed any application they are

directed to file the same within 7 days from the receipt of this order. Both the appeals are allowed by way of remand.

(Dictated & pronounced in the Open Court.)

(P.K. DAS)
MEMBER (JUDICIAL)

RK