

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/4073/2010-SM[BR]& E/ STAY / 3964 / 2010-SM[BR]

Date 03/05/2011

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

To :
M/S GOBIND SUGAR MILLS LTD.,
P.O. AIRA ESTATE, LAKHIMPUR KHERI (U.P)
M/S GOBIND SUGAR MILLS LTD.,

Appellant
Vs
Respondent

C.C.E. LUCKNOW

I am directed to transmit herewith a certified copy of Final order No.242/2011-SM[BR]&S/198/2011 dated 25.4.2011
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

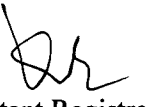

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
C.C.E. LUCKNOW
7-A, ASHOK MARG, LUCKNOW.

2. Adv. / Consult
MR.RAJESH CHHIBBER
FA/9, NEW KAVI NAGAR, GHAZIABAD

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New
6. M/s Centax Publications Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
7. Company Law Institute of India Pvt Ltd., No.2 (Old No. 36), Vaithyaram Street, T. Nagar, Chennai -17
8. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi -
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd, LAW House, 1-8, Sector - 10, Faridabad 121003 (Harvana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor, Vasant Arcade, Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file


Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
SINGLE MEMBER BENCH

E/Stay/3964/10 in Appeal No.E/4073/10-SM

(Arising out of Order-in-Appeal No.316-CE/LKO/2010
dt.06.10.2010 passed by the CCE (Appeals), Lucknow)

For approval and signature:

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

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 should 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?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	NO

M/s.Gobind Sugar Mills Ltd.
Vs.

Appellants

CCE, Lucknow

Respondent

Present for the Appellant: Shri Rajesh Chhibber, Advocate
Present for the Respondent: Shri Anil Khanna, SDR

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

Date of Hearing/decision: 25.04.2011

Final ORDER NO. 242/2011 SM (Br) &
S - 198/2011 SM (Br)
PER: M.VEERAIYAN

Heard both sides.

2. Learned Advocate submits that vide letter dated 5.2.2011 addressed to the Assistant Registrar, an intimation has been sent informing the payment of disputed amount of Rs.4,32,382/- on

21.01.2011. In view of the above, stay petition is disposed of and appeal itself is taken up for final decision.

3. The Commissioner (Appeals) vide stay order dated 9.6.2010 directed the appellant to deposit a ~~sum of~~^h 20% of the disputed duty and penalty amount and on failure to comply with the said order dismissed the appeal vide order dated 6.10.2010.

4. Inasmuch as the appeal was not gone into by the Commissioner (Appeals) on merits and inasmuch as the appellants have subsequently deposited the entire disputed amount of duty, I deem it proper to set aside the order of the Commissioner (Appeals) and remand the matter for fresh consideration after granting a reasonable opportunity of hearing. The Commissioner (Appeals) shall hear^h~~ing~~ the appeal without insisting on any further deposit of interest and penalty. All issues are kept open.

5. The appeal is allowed by way of remand as above. The stay petition is also disposed of.

Pronounced in the open court)

(M.VEERAIYAN)
MEMEBR (TECHNICAL)

mk