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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

Date **19/08/2011**

Appeal No. **E/3777/2010 & E / 3101 / 2010 -SM[BR]**

Assistant Registrar
C.E.S.T.A.T, New Delhi
To :
1. **M/S PATIALA ENTERPRISES,**
2. **M/S PATIALA ENTERPRISES.**
MANDI GOBINDGARH.

M/S PATIALA ENTERPRISES, Appellant

Vs

C.C.E. CHANDIGARH Respondent

I am directed to transmit herewith a certified copy of **Final order No. 485 – 486/2011-SM[BR]** dated 14.7.2011 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. CHANDIGARH
C.R. BUILDING, PLOT NO. 19,
SECTOR 17-C, CHANDIGARH
160017

2. Adv. / Consult
MR.GAURAV AGARWAL
RAM BHAWAN,G.T.ROAD,MANDI GOBINDGARH

3. C.D.R
4. Bar association. CESTAT. New Delhi
5. Director Publications. Customs. Excise. I.P. Estate. New Delhi -
6. M/s Centax Publictions 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 (Haryana)
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
Court-IV
Excise Appeal No.3777 of 2010-SM
Excise Appeal No.3101 of 2010-SM

Date of Hearing/Decision: 14.07.2010

(Arsing out of Order-in-Appeal No.115CE/CHD-I/2010 dated 13.08.10 and OIA No.81/CE/Chd-I/2010 dt.29.4.10 passed by the CCE(A), Chandigarh)

For approval and signature:

Hon'ble Mr.Ashok Jindal, 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 should 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?	

M/s.Patiala Enterprises — Appellant

Vs.

CCE, Chandigarh — Respondent

Present for the Appellant: Ms.Sukriti Das, Advocate
Present for the Respondent: Ms. R.K.Jagdev, SDR

Coram: Hon'ble Mr.Ashok Jindal, Member (Judicial)

Final **ORDER NO.** 485 - 486/2011 SM (Br)

PER: ASHOK JINDAL

The appellants are in appeals against the impugned order of the Commissioner (Appeals). In appeal No.E/3777/10, the appellants are seeking to remand the matter to the Commissioner (Appeals) as the Commissioner (Appeals) has not considered their contention and passed the order relying on earlier order passed by him in the Revenue's appeal for enhancement of penalty only. The appellants have also challenged the demand of duty on the ground of limitation which he failed to consider.

3. In appeal No.E/3101/10-SM, the appellants are in appeal against the order of the Commissioner (Appeals) wherein he has enhanced the penalty form 25% to 100% under Section 11AC of Central Excise Act, 1944.

4. Heard both sides and perused the records.

5. After considering the submissions made by both sides, the Commissioner (Appeals) has not decided the issue on merits that is he has not considered the submissions of the appellants on the ground of limitation. Therefore, the matter is sent back to the Commissioner (Appeals) in Appeal No.E/3777/10 to pass appropriate order on merits after considering the submissions of the appellants and thereafter he will decide the issue in appeal No.E/3101/10 if necessary.

6. With these observations, the impugned orders are set aside by allowing the appeals by way remand.

(ASHOK JINDAL)
MEMBER (JUDICIAL)

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