

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/527 – 529 / 2011-SM[BR]& C/STAY/2843-2845 /2011-SM[BR]

Date 21/12/2011

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

To :
C.C. (ICD) NEW DELHI
ICD, TUGHLAKABAD, NEW DELHI 110020.
C.C. (ICD) NEW DELHI

Appellant

Vs

Respondent

M/S PROTONICS SYSTEMS INDIA PVT. LTD.

I am directed to transmit herewith a certified copy of Final order No.904-906/2011-SM[BR]&S/856-858/2011 dated 15.12.2011 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

M/S PROTONICS SYSTEMS INDIA PVT. LTD.
C-45, PHASE-II, NOIDA.

2. Adv. / Consult SHRI S.D.GAUR CONSULTT.

M/s Protonics Systems India Pvt Ltd

[2] SHRI SUBI PURI ADV. 301, PADAM CHAMBERS
PADAM SINGH ROAD KAROL BAGH NEW DELHI

[3] SHRI PRADEEP JAIN ADV. 370-371/2,
SAHI HOSPITAL ROAD JUNG PURA [BHOGAL] NEW DELHI

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)

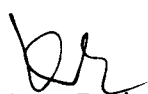
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor, Vasant Arcade, Nelson Mandela Road, Vasant Kunj, New Delhi - 110070

12. Office Copy

13. Guard file

[2] **M/S SONA COMMERCIAL PVT. LTD.**

B-18/5, RAMESH NAGAR, RAJA GARDEN, CHOWK NEW DELHI-15.


Assistant Registrar
(SM Appeal Branch)

[3] **M/S MANISH EXPORTS INDIA**

484, KATRA ISHWAR BHAWAN, KHARI BAOLI DELHI-6.

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

COURT NO. II

**C/Stay/2843 to 2845 of 2011-SM in &
Customs appeal No. 527 to 529/2011-SM**

[Arising out of Order-in-Appeal No. CC(A)Cus./ICD/189/11 dated 20.04.2011, CC(A)Cus./ICD/354/11 dated 15.04.11 and CC(A)Cus./ICD/184/11 dated 18.04.11 all passed by the Commissioner of Customs (Appeals), New Custom House, New Delhi].

Date of Hearing/decision: 15th December, 2011

For approval and signature:

Hon'ble Shri D.N. Panda, Judicial Member

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?	

C.C. (ICD), New Delhi

Appellant

Versus

M/s. Protonics Systems India Pvt. Ltd.

M/s. Sona Commercial Pvt. Ltd.,

M/s. Manish Exports India

Respondents

Present for the Appellant : Mrs. R. Jagdav, S.D.R.

Present for the respondents : Shri S.D. Gaur, Consultant

Coram: Hon'ble Shri D.N. Panda, Judicial Member

FINAL ORDER NO. 904-906/2011 SM (Br) &
S-856-858/2011 SM (Br)

Per D.N. Panda:

In all the three appeals, learned D.R. says that they are aggrieved by first appellate order where the authorities below has appreciated that the respondents were not heard in person. Accordingly, they pray that first appellate order may be set aside. There is no appeal from any of the three respondents.

2. On the other hand, learned Counsel appearing for the respondents ^{raise} ~~prays~~ grievance that they had not received any intimation for hearing. Not even defect memos issued to them.

3. Grievance of the respondents being violation of principle of natural justice, that is incurable at appellate stage. Therefore, to do justice they should get an opportunity of removal of defect, if any, in their applications and be heard in person for advancing their defence plea, if any.

4. In view of the aforesaid circumstance, justice ordains that the respondents should go back to the learned Adjudicating Authority for reasonable opportunity of hearing and for redressal of their grievance.

5. In view of the above, all the three stay applications and appeals are dismissed. Copy of this order may be kept in all the three appeal record.

(Pronounced in the open Court)

(D.N.PANDA)
JUDICIAL MEMBER

RK