TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
SINGLE MEMBER APPEAL BRANCH

Appeal No. ST/1245/2011 – SM[BR] ST / STAY /2615/2011-SM[BR] **Date** **02/01/2012**

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

To :
M/S BAJAJ HINDUSTHAN LIMITED,
CORPORATE OFFICE: BAJAJ BHAWAN JAMNALAL
BAJAJ MARG, B-10, SECTOR-3, NOIDA (U.P.)-201301.

M/S BAJAJ HINDUSTHAN LIMITED, Appellant

Vs

C.C.E. NOIDA Respondent

I am directed to transmit herewith a certified copy of **Final order No.954/2011-SM[BR] &S/900/2011** dated 20.12.2011 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
C.C.E. NOIDA
C-56/42, SECTOR-62,
NOIDA-201307

2. Adv. / Consult
MR.PRADEEP KUMAR MITTAL ADV.
171-CHITRA VIHAR DELHI-110092

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New
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

COURT NO. II

ST/Stay/2615 of 2011 in & Service Tax appeal No. 1245/2011-SM

[Arising out of Order-in-Appeal No. 93/ST/APPL/NOIDA/2011 passed by the Commissioner (Appeals), Customs & Central Excise, Noida].

Date of Hearing/decision: 20th 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?	

M/s. Bajaj Hindustan Limited — Appellant

Vs.

CCE, Noida — Respondent

Present for the Appellant : Shri P.K. Mittal, Adv.
Present for the Respondent : Shri R.K. Verma, Advocate

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

FINAL ORDER NO. 954/2011 SM BR/+
S- 960/2011 SM BR

Per D.N. Panda:

Learned Counsel says that had the case been brought within the fold of Section 73 of the Finance Act, 1994, finding any of the five elements of law present in the case, the show cause notice would have survived for counting limitation backward from 23.3.2010 which the date of show cause notice. But ~~S~~such notice enables adjudication to survive for 9 days. Rest of the adjudication prior to 23.3.2009 is time barred.

2. Learned D.R. supports the adjudication order.

3. Heard both sides and perused the record.

4. The averment as above calls for waiver of requirement of pre-deposit for hearing the appeal on narrow compass. Consequently, dispensing with requirement of pre-deposit, appeal is disposed by this common order.

5. Learned Commissioner in page 24 of his order recorded that there is no mala fide on the part of the appellant which makes clear that extended period was not invokable. But normal period is covered. Therefore, the adjudication is modified and confined to normal period of adjudication which shall be reckoned from 23.3.2009 to 31.3.2009. With this direction, appeal is partly allowed to recompute tax liability for the above limited period and interest if any, shall be payable on the tax demand. It is made clear that the appellant shall not face penal consequence of law.

6. In the result, both stay application and appeal are disposed.

(Dictated & pronounced in the Open Court.)

(D.N. PANDA)
JUDICIAL MEMBER

RK