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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. E/2737/2010 – SM[BR] E / STAY / 2468 / 2010-SM[BR] Date 09/12/2010

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

To :
M/S J.H.V SUGAR LTD
GADAURA, NICHLAUL, DISTT- MAHARAJGANJ(UP)

M/S J.H.V SUGAR LTD Appellant

Vs

C.C.E ALLAHABAD Respondent

I am directed to transmit herewith a certified copy of **Final order** No.1385/2010-SM[BR]&S/665/2010 dated 29.11.2010 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 ALLAHABAD
   38,M.G.MARG, CIVIL LINES, ALLAHABAD
2. Adv. / Consult SHRI RAJESH CHHIBBER ADV.
   FA-9, NEW KAVI NAGAR, GHAZIBAD

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 Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
10 Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005
11 Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
12 LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
13 TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
14 Office Copy
15 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/2468/10 in Appeal No.E/2737/10-SM

(Arising out of Order-in-Appeal No.152-CE/ALLD/2010 dated 18.05.2010 passed by the CCE (A), Allahabad)

Date of Hearing/Decision: 29.11.2010

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?	Yes
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
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?	Yes

M/s.J.H.V.Sugar Ltd. Appellant

Vs.

CCE, Allahabad Respondent

Present for the Appellant : None
Present for the Respondent: Shri Anil Khanna, SDR

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

Final **ORDER No.** 1385/2010 SM(BR)
S-665/2010 SM(BR)

PER: M.VEERAIYAN

Heard learned SDR. None appears for the appellant, in spite of notice. On earlier occasion also (on 18.10.10), none appeared for the appellant, in spite of notice.

2. The Commissioner (Appeals) dismissed the appeal by the party on the ground of limitation. As per finding off the Commissioner (Appeals), the order of the original authority is dated 31.3.08 and the appeal filed before the Commissioner (Appeals) only

on 27.1.10. As the delay is much beyond condonable power of the Commissioner (Appeals), the Commissioner (Appeals) has dismissed the appeal as time barred.

3. On perusal of the grounds of appeal, it is noticed that the appellants have not disputed the receipt of the order in original on 12.4.08. They are claiming that it was not served on the responsible person of the appellant company. Further perusal of the records also indicates that show cause notice is dated 1.6.07, the appellants filed reply dated 19.10.07 but did not appear before the original authority though personal hearings were granted on four different occasions and that have been either negligent or not vigilant to pursue the proceedings before the adjudicating authority as well. When the appellants have not disputed the service of the order of the original authority on 12.4.08, the Commissioner(Appeals) having no power to condone the delay beyond thirty days, the rejection of appeal as time barred cannot be faulted.

4. The appeal is therefore dismissed and stay petition is also disposed of.

(Dictated and Pronounced in the open court)

(M.VEERAIYAN)
MEMBER (TECHNICAL)

mk