

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

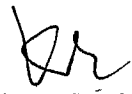
To :
M/S J.H.V SUGAR LTD
GADAURA, NICHLAUL, DISTT- MAHARAJGANJ(UP)
M/S J.H.V SUGAR LTD

Appellant

Vs
Respondent

C.C.E ALLAHABAD

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 Publications 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

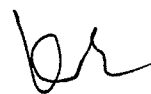
11 Easy Service Tax Online Dot Com Pvt.Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-15

12 LAWCRUX Advisors Pvt Ltd, LAW House, 1-8, Sector - 10, Faridabad 121003 (Harvana)

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.VÉERAIYAN)
MEMBER (TECHNICAL)

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