

**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/1164/2008 – SM[BR]

Date 08/09/2010

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

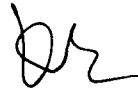
To :  
M/S HI-SPEED OFFSET  
A-14, JHILMIL INDUSTRIAL AREA,  
SHAHDARA, DELHI-110095.  
M/S HI-SPEED OFFSET

Appellant

Vs  
Respondent

C.C.E. DELHI II

I am directed to transmit herewith a certified copy of Final order No. 960 /2010-SM[BR] dated 1.9.2010  
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. DELHI II

C.R. BUILDING, I.P. ESTATE, NEW DELHI 110002

2. Adv. / Consult

MR.S. K. PAHWA

MARWAH & PAHWA, 45, ARADHANA SECTOR 13, R. K. PURAM, NEW DELHI-110066.

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  
NEW DELHI

COURT NO. II

**Excise Appeal No. 1164 of 2008-SM**

(Arising out of Order-in-Appeal No. 22-CE/DLH/2008 dated 3.3.2008 passed by Commissioner (Appeals), Central Excise, New Delhi)

Hi-Speed Offset

Appellant

Vs.

CCE, Delhi-II

Respondent

Appearance :

Appeared for Appellant : Shri S.K. Pahwa, Advocate

Appeared for Respondent: Shri Anil Khanna, SDR

Date of Hearing: 10.8.2010

CORAM: HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER

*Final* Order No. .... 960/2010 SM B2 ..... dated.....

Per D.N. Panda:

Ld. Counsel Shri S.K. Pahwa very fairly states that this Appellant is not pressing for two claims which were subject matter before the Id. first Appellate Authority. The only claim he is pressing today is for refund of Rs.1,94,302/-. He states that if the authority considers the original export document certificate available in the records of Revenue as per Communication No. IV(16)100/Tech/D-II/08/863 dated 22.4.08, as exhibited by Annexure-7 to the Appeal memo appearing at page 42 of the appeal folder, the Appellant may not have grievance.

2. Ld. DR Shri Anil Khanna submits that the Appellant was required to annexe the required document while making the claim. For no enclosure to the claim, refund was rightly rejected.
3. Heard both sides and perused the record.
4. No doubt procedure requires that claim should be accompanied by respective evidence. But procedure cannot be tyrant but is servant of law. The Hon'ble Supreme Court in the case of **Sambhaji Vs. Gangabai** reported in 2009 (240) ELT 161 (SC) has held that procedure should not be bottleneck. In view of the suffering of the Appellant for reasons beyond its control which is apparent from page 42 embodying the communication of CPIO under RTI Act 2005, Id. Adjudicating Authority should call for the record appearing in that communication and examine the claim of the Appellant. It is needless to mention that the Authority should trace the evidence from public record <sup>which has</sup> come out from RTI reply. With the aforesaid direction, the matter is remanded only for the limited prayer of refund of Rs.1,94,302/- to the Id. Adjudicating Authority who shall do justice to the Appellant within one month of receipt of this order.

(Dictated & pronounced in open Court)

(D.N. PANDA)  
JUDICIAL MEMBER

RM