

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/651 /2008 – SM[BR]

Date 19/08/2010

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

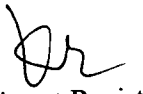
To :
M/S COLOUR TECHNIQUE (UNIT-I)
K-46, SITE NO. III,
PANKI INDUSTRIAL AREA,
KANPUR.
M/S COLOUR TECHNIQUE (UNIT-I)

Appellant

Vs
Respondent

C.C.E. KANPUR

I am directed to transmit herewith a certified copy of Final order No. 897 / 2010 –SM[BR] dated 12.8.2010
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. KANPUR

117/7, SARVODAYA NAGAR, KANPUR 208005.

2. Adv. / Consult

NONE;-----

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

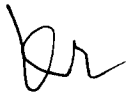
11 Easy Service Tax Online Dot Com Pvt Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-15

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.
BENCH-SM

Date of Hearing/Decision:11.08.2010

Excise Appeal No.E/651/08-SM

[Arising out of Order-in-Appeal No.391-CE/APPL/KNP/2007 dated 28.12.2007 passed by the Commissioner (Appeals), Kanpur].

M/s. Colour Technique

...Appellant

Vs.

CCE, Kanpur

... Respondent

Present for the Appellant :None

Present for the Respondent:Shri.S.K. Bhaskar, DR

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

final **ORDER NO. 897/2010 SM(B) DATED:11.08.2010**

PER: D.N.PANDA

None present for the appellant. The appellant having lost its appeal before the Id. First Appellate Authority, thorough enquiry into the record has been done.

2. Ld. DR explains that when the orders sought to be appealed before the Id. Commissioner (Appeals) was communicated to the appellant on 8.6.07, appeal against that order came before the Id. Authority on 27.12.2007. Therefore, that was rightly dismissed.

3. Heard the Id. DR and also gone through the grounds of appeal of the appellant. Ld. Commissioner has recorded that

the appeal was dismissed being time barred. According to the recording, the adjudication order was communicated to the appellant on 8.6.07 and appeal thereon was filed on 27.12.2007. He is statutory authority and has no power to extend the limitation unless otherwise required by law. Apart from the limitation of 60 days, Id. Commissioner has discretionary power to condone the delay if that has ^{been} filed beyond 60 days, subject to further limitation of 30 days. There was no application before him explaining delay nor also the manner how he shall exercise the power.

4. Even in the grounds of appeal the pitiable condition is that the appellant explains that the adjudication order could not reach to the appellant since that was received by one Shri Satish Kumar Sharma who did not deliver the order for seeking remedy of appeal. There is no affidavit from any corner nor also any evidence coming out from the grounds of appeal to come to rescue of the appellant. No doubt that the appellant shall suffer, if the appeal is dismissed on limitation, but there is no scope to intervene to the statutory power conferred on the Id. Commissioner to direct him to act beyond the jurisdiction. Therefore, the appeal is bound to be dismissed. It is ordered accordingly.

[Dictated & Pronounced in the open Court].

(D.N.PANDA)
JUDICIAL MEMBER

Anita