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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066

CUSTOMS APPEAL BRANCH

Appeal No. ST/297 /2011 - CU[DB] Date **12/10/2011**
ST/S/536/2011

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

To :
M/S ASHOKA TRADING COMPANY,
OMKARANAND SOCIAL PLACE, DHARAMSHALA,
HIRA LAL ROAD, RISHIKESH, DEHRADUN.

M/S ASHOKA TRADING COMPANY, Appellant

Vs

C.C.E. MEERUT I Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/545/ 2011 CU[DB]** dated 07.10.2011 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Alongwith Stay Order No ST/703/2011

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
C.C.E. MEERUT I
EXCISE CHOWK,OPPOSITE
CHOUDHARY CHARAN SINGH
UNIVERSITY MANGAL PANDAY
NAGAR, MEERUT - 250005.
2. Adv. / Consult
MRS.RENU GUPTA,ADVOCATE
1058, SECTOR-3, R.K.PURAM, N DELHI-22
3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New Delhi
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 - 110005
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
(Customs Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. III

Service Tax Appeal No. 297 of 2011
Service Tax Stay Application No. 536 of 2011

[Arising out of Order-in-Appeal No. 258/CE/MRT-I/2010-11 dated 29.10.2010 passed by the Commissioner of Customs & Central Excise (Appeals), Meerut]

For approval and signature:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Rakesh Kumar, Member (Technical)

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1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	:	No
2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	:	No
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

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M/s. Ashoka Trading Company — Appellants

Vs.

Commissioner of Central Excise
Meerut I — Respondent

Appearance:

Ms. Renu Gupta, Advocate for the Appellants
Shri K.K. Jaiswal, SDR for the Respondent

CORAM:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Rakesh Kumar, Member (Technical)

Date of Hearing/decision : 3.10.2011

Stay order No. ST/703/11

Final **ORAL ORDER NO. ST/545/11**

Per Archana Wadhwa (for the Bench):

After dispensing with the condition of predepost of Service Tax of Rs.36,613/- and penalty of identical amount imposed under Section 78, we proceed to decide the appeal itself.

2. It is seen that the matter had earlier been rejected by the Commissioner (Appeals) as barred by limitation. The appellant approached the Tribunal and Tribunal set aside the impugned order passed by the Commissioner (Appeals) with the direction to the appellants to file condonation of delay application before the Commissioner (Appeals). Learned Advocate appearing for the appellant fairly agrees that no condonation of delay application stands filed before the Commissioner (Appeals) who has again rejected the appeal on time bar. She however, submits that the lapse on the part of the appellant for not filing of COD application is the result of confusion on the part of Chartered Accountant who had appeared before the Commissioner (Appeals) and advanced arguments on merits. However, she prays that one more chance be given to the appellant for getting the COD application filed before the Commissioner (Appeals). Not appreciating the above ~~factum~~ casual attitude of appellants, in the interest of justice we afford another chance to the appellants to approach the Commissioner (Appeals) for getting the delay condoned by filing the

COD application before him and to get the matter decided on merits thereafter.

3. Stay petition as also appeal gets disposed of in the above manner.

(Pronounced in the open court)

(Archana Wadhwa)
Member(Judicial)

(Rakesh Kumar)
Member(Technical)

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