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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

Date :05/09/2011

STAY Order No. ST/579/2011 & Misc Order No ST/138/11

Application ST/STAY/3056/2010 & ST/COD/419/10- CU In

Appeal No. ST/1460/2010 - CU[DB]

1. Appellant
   M/S AVTAR SINGH GILL,
   DISTT. COMMANDER PUNJAB HOME GROUNDS, KANJILI ROAD, DISTT, KAPURTHALA.
2. Respondent
   C.C.E. LUDHIANA
   CENTRAL EXCISE HOUSE, 'F' BLOCK, RISHI NAGAR, LUDHIANA 141001 (PUNJAB)
3. Adv / Consult :
   MR.HARVINDER SINGH,ADV
   34/10, RAJ NAGAR, KAPURTHALA ROAD, SUNNY BISTER BHANDAR, JALANDHAR.
4. 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 - 110003
8. Company Law Institute of India Pvt Ltd, No.2 (OLD No.36),Vaithyaram Street, T. Nagar, Chennai 600017
9. Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi -110005
10. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15
11. LAWCRUX Advisors (P) Ltd, Law House,1-8,Sector - 10, Faridabad 121003 (Haryana)
12. TaxIndiaOnline.com Pvt Ltd, Unit No. 1, 2nd Floor, Vasant Arcade Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
13. Office Copy
14. Guard File
15. Second Folder

~~The above matter is listed before Hon'ble Registrar On 07.10.2011 for compliance of Stay Order.~~

Assistant Registrar
(Customs Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
COURT NO. II

Date of Hearing : 29.7.2010

Service Tax Condonation of Delay No. 419 of 2010 , Service Tax Stay No. 3056 of 2010 in Service Tax Appeal No. 1460 of 2010

(Arising out of Order-in-Appeal No. 160/CE/LDH/2010 dated 14.6.2010 passed by the Commissioner (Appeals), Customs & Central Excise, Chandigarh)

Coram:
Hon'ble Shri D.N. Panda, Judicial Member
Hon'ble Shri Sahab Singh, Technical Member

1.	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3.	Whether their Whether their Lordships wish to see the fair copy of the order?	
4.	Whether order is to be circulated to the Department Authorities?	

M/s Avtar Singh Gill — Applicant/Appellant

Vs.

CCE, Ludhiana — Respondent

Appearance

Appeared for Appellant : Shri Harvinder Singh, Advocate
Appeared for Respondent : Shri Amrish Jain, DR

CORAM: HON'BLE SHRI D.N. PANDA, JUDICIAL MEMBER
HON'BLE SHRI SAHAB SINGH, TECHNICAL MEMBER

Misc order No. ST/1138/11

Stay Order No. ST/579/11 dated............

Final order No. ST/549/11

Per D.N. Panda :

Ld. Counsel submits that for not making pre-deposit before the first Appellate Authority its Appeal was dismissed. The Appellant has merit in its case for which the Appeal may be admitted condoning delay. Sixteen days delay occurred non-deliberately under confusion that the Appellant is a Government sector and was seeking COD clearance. Pre-deposit may be waived and ld. Commissioner (Appeals) may be directed to hear the Appeal on merits.

2. Ld. DR supports the order of the Authority below on the ground that right of Appeal is conditional and pre-deposit is essential for hearing the Appeal on merit.

3. Heard both sides and perused the record. Ld. Commissioner (Appeals) directed deposit of Rs.8,30,374/- for hearing the Appeal. For failure of the Appellant to make such deposit its Appeal was dismissed. But we have noticed that the Appellant may suffer if delay made in seeking Appeal remedy ~~seeking~~ is not condoned and Appeal is not admitted. Accordingly, MA (COD) is allowed condoning the delay and both stay application and Appeal are taken up for hearing as well as disposed by this common order.

4. It appears that ld. Appellate Authority below felt that waiver of pre-deposit in the present case shall prejudice interest of Revenue. Therefore keeping in view the difficulty expressed by the Appellant, we direct the Appellant to make pre-deposit of Rs.4.00 lakhs (Rupees Four lakhs) within eight weeks from today and make compliance before the

ld. Commissioner (Appeals) on **14th October 2011** and file an application for fixation of Appeal for hearing on merits. If such application is made, ld. Appellate Authority shall fix a date of hearing and hear the Appellant on its merit.

6. Consequently, MA (COD) is disposed, stay petition is disposed of and also the Appeal disposed in the manner indicated above.

(Dictated & pronounced in open Court)

(D.N. Panda)
Judicial Member

(Sahab Singh)
Technical Member

RM