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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

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

SINGLE MEMBER APPEAL BRANCH

Date **29/06/2011**

Appeal No. **E/3934/2010 – SM[BR] &E / STAY / 3792/2010-SM[BR]**

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

To :
M/S THE OUDH SUGAR MILLS LTD
HARGAON, SITAPUR(UP)

M/S THE OUDH SUGAR MILLS LTD Appellant
Vs
C.C.E. LUCKNOW Respondent

I am directed to transmit herewith a certified copy of **Final order No.352/2011-SM[BR]&S/304/2011** dated 24.6.2011 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. LUCKNOW
7-A, ASHOK MARG, LUCKNOW.

2. Adv. / Consult
MR.RAJESH CHHIBBER
FA/9, NEW KAVI NAGAR, GHAZIABAD

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 -
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
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
BENCH-SM

Date of Hearing/Decision:24.06.2011

Excise Stay Appn. No.3792/10-SM in
Excise Appeal No.E/3934/10-SM

[Arising out of Order-in-Appeal No. 288-CE/LKO/2010 dated 29.09.2010 passed by the Commissioner (Appeals), Lucknow].

M/s. The Oudh Sugar Mills Ltd. ...Appellant

Vs.

CCE, Lucknow ... Respondent

Present for the Appellant :Shri.Rajesh Chhibber, Advocate
Present for the Respondent:Ms. Renu Jagdev, SDR

Coram: HON'BLE MR. M.V. RAVINDRAN, JUDICIAL MEMBER

Final **ORDER NO.** 352/2011 SM (BR) **DATED:24.06.2011**
S-304/2011 SM (BR)

PER: M.V. RAVINDRAN

When this stay petition was called ~~UP~~ up, ld. Counsel submits that the Commissioner (Appeals) has not considered the Modification Application filed by the assessee against the stay order passed by him and has dismissed the appeal for non-compliance. It is his submission that the ld Commissioner (Appeals) has not given an opportunity of hearing while disposing Modification Application.

2. On careful consideration of submissions made by both sides, I am of the considered view that the appeal itself could be disposed off at this juncture. Hence, after considering the stay application filed by the assessee, I take up the appeal itself for disposal. I find that the ld. Commissioner (Appeals) has directed the appellant to pay 20% of duty and penalty as a pre-deposit. In my opinion, this is a very fair order which needs to be complied by the assessee before this appeal is heard by the ld. Commissioner (Appeals).

3. In view of the difficulties expressed by the ld. Counsel, I direct the appellant to deposit the amount as ordered by the ld. Commissioner (Appeals) within 4 (four) weeks from today and report compliance to ld. Commissioner (Appeals) on 5th August, 2011. Subject to such compliance being reported by the assessee, the ld. Commissioner (Appeals) will hear and dispose the appeal on its own merit. Stay petition and appeal disposed off as indicate here in above.

[Dictated & Pronounced in the open Court].

(M.V. RAVINDRAN)
JUDICIAL MEMBER

Anita