

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/3934/2010 – SM[BR] &E / STAY / 3792/2010-SM[BR]

Date 29/06/2011

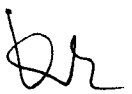
Assistant Registrar
C.E.S.T.A.T, New Delhi

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

Appellant
Vs
Respondent

C.C.E. LUCKNOW

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

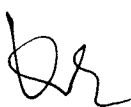

Assistant Registrar
(SM Appeal Branch)

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
6. M/s Centax Publications 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 (Harvana)
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 ^{Supl} ~~on~~, Id. 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 Id 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 Id. 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 ^{is} this appeal_{is} heard by the Id. Commissioner (Appeals).

3. In view of the difficulties expressed by the Id. Counsel, I direct the appellant to deposit the amount as ordered by the Id. Commissioner (Appeals) within 4 (four) weeks from today and report compliance to Id. Commissioner (Appeals) on 5th August, 2011. Subject to such compliance being reported by the assessee, the Id. 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