

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
SINGLE MEMBER APPEAL BRANCH

Appeal No. C/83 /2011 – SM[BR]

Date 19/08/2011

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

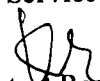
To :
M/S SIMPEX PHARMA PVT. LTD.,
B-4/160, SAFDARJUNG ENCLAVE, NEW DELHI.
110029
M/S SIMPEX PHARMA PVT. LTD.,

Appellant

Vs
Respondent

C.C. (EXPORT) NEW DELHI

I am directed to transmit herewith a certified copy of **Final order No. 491 /2011-SM[BR]** dated 21.7.2011
passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**


Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

C.C. (EXPORT) NEW DELHI
AIR CARGO EXPORT, NEW
CUSTOM HOUSE, NEW DELHI
110037

2. Adv. / Consult **SHRI SATENDER SINGH EMPLOYEE**
M/S APPELLANT:-----

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. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi**

**COURT NO. III
Customs Appeal No. 83 of 2011 (SM)**

[Arising out of the Order-in-Appeal No. CC(A) Cus./JQG/
338/10 dated 16/11/2010 passed by The Commissioner of
Customs (Appeals), New Delhi.]

For Approval and signature :

Hon'ble Shri Rakesh Kumar, Member (Technical)

1. Whether Press Reporters 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 Lordships wish to see the fair :
copy of the order?
4. Whether order is to be circulated to the :
Department Authorities?

M/s Simpex Pharma Pvt. Ltd.

Appellant

Versus

CC, New Delhi

Respondent

Appearance

Shri Satender Singh, Employee of Company – for the
appellant.

Shri B.L. Soni, Authorized Representative (DR) – for the
respondent.

CORAM : Hon'ble Shri Rakesh Kumar, Member (Technical)

DATE OF HEARING : 21/07/2011.

final Order No. 491/2011 SM (Br) Dated : _____

Per. Rakesh Kumar :-

In this case the Commissioner (Appeals) dismissed the appeal as time barred without into the merits of the case on the ground that the appellant had filed the appeal after three years and 73 days, beyond the stipulated period of the time and that the period of delay beyond 90 days cannot be condoned.

2. Heard both the sides.

2.1 Shri Satender Singh, an employee of the appellant appearing for them accepted that there was delay of three years and 73 days beyond the stipulated period in filing of appeals for the Commissioner (Appeals). As it is well settled that by the judgment of Hon'ble Supreme Court in the case of **Singh Enterprises vs. CCE, Jamshedpur** reported in **2008**

(221) E.L.T. 163 (S.C.), that when the Commissioner (Appeals) can condone the delay in filing of appeal only upto period of 30 days, the delay beyond 30 days cannot be condoned. In this case, the delay is three years and 73 days for beyond the period of 30 days which can be condoned. In view of this, I hold that the Commissioner (Appeals) has rightly dismissed the appeal as time barred and as such there is no infirmity in the impugned order. The appeal is dismissed.

(Dictated and pronounced in open court.)

(Rakesh Kumar)
Member (Technical)

PK