TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

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

CUSTOMS APPEAL BRANCH

Date 20/01/2011

Appeal No. ST/677 /2010 , ST/COD/186/10- CU[DB]
ST/S/1204/10

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

To :
M/S. HAWA SINGH DHAYAL
V & PO-NARHAR. TEHSIL-CHIRAWA. DISTT.
JHUNJHUNU. RAJASTHAN.

Appellant

M/S. HAWA SINGH DHAYAL

Vs
Respondent

C.C.E. JAIPUR I

I am directed to transmit herewith a certified copy of **Final order No. ST/08/ 2011 CU[DB]** dated 17.01.11 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/20/11, & Misc Order No ST/06/11

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
C.C.E. JAIPUR I
N.C.R.BUILDING, STATUE
CIRCLE, "C" SCHEME, JAIPUR
302005.
2. Adv. / Consult
MR.ALOK KOTHARI
A-92, MANISH MARG, NEMI
NAGAR, GANDHI PATH,
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. M/s. Deeparchie Publications. M-93. Marg. 46. Saket. New Delhi 110017
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 Pvt 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

Assistant Registrar
(Customs Appeal Branch)

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

Service Tax COD Application No. 186 of 2010
Service Tax Stay Application No. 1204 of 2010
Service Tax Appeal No. 677 of 2010

[Arising out of Order-in-Appeal No. 47(DK)/ST/JPR-I/2009 dated 16.7.2009 passed by the Commissioner (Appeals), Customs & Central Excise Jaipur]

For approval and signature:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. M. Veeraiyan, 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? : 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

---

M/s. Hawa Singh Dhayal . Appellants

Vs.

Commissioner of Central Excise & Service Tax, Jaipur I Respondent

Appearance:

Shri A. Kothari , Advocate for the Appellants
Shri Fateh Singh, SDR for the Respondent

CORAM:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. M. Veeraiyan, Member (Technical)

M.o. No. ST/6/11 Date of Hearing/decision : 17.01.2011
Stay order No. ST/20/11
Final **ORAL ORDER NO.** ST/8/11

Per Archna Wadhwa (for the Bench):

The prayer is to condone the delay of 101 days. Learned advocate appearing for the appellants submits that the impugned order of Commissioner (Appeals) stands passed by him by dismissing the appeal for non-compliance with the stay order directing him to deposit an amount of Rs,60,000/-. The service tax stands confirmed against appellants in respect of services rendered to the PWD for road repairs etc. He submits that by the time the impugned order was passed, the activity related to repair of roads was exempted by way of issue of notification No. 24/2009 dated 27.7.09. When the appellants approached the PWD authorities with the order of dismissal passed by the Commissioner (Appeals) on 15.7.2009, he was informed that as the said activity has been exempted, the appellants being illiterate person and not knowing that the order is required to be challenged, did not file any appeals on the advise of authorities and it was only subsequently, that he was advised to file the appeal.

2. In view of the above understanding, we condone the delay of 101 days in filing the appeal and allow the COD.

3. We however note that the impugned orders had dismissed the appeal for non-compliance with the directions to deposit an amount of Rs.60,000/- as a condition of hearing of appeal. Learned Advocate submits that the said amount would be deposited by the appellant, if sometime is given to them. Accordingly, we direct the appellant to direct the amount of Rs.60,000/- (Rupees Sixty thousand only) within a period of 8 weeks from today and report compliance to Commissioner (Appeals) who would, after ascertaining the compliance, decide the appeal on merits. COD application, stay petition and appeal gets disposed of in the above manner.

(Archana Wadhwa)
Member(Judicial)

(M. Veeraiyan)
Member(Technical)

ss