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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

ST/807/2010 - CU[DB]
Appeal No. ST/COD/202/10 & ST/CO/196/10

Date **04/02/2011**

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

To :
C.S.T. DELHI
17-B, I.P. ESTATE, IAEA HOUSE, NEW DELHI.

C.S.T. DELHI Appellant

Vs

M/S. GAUTAM AUTO Respondent

I am directed to transmit herewith a certified copy of **Final order No. ST/32/2011 CU[DB]** dated 01.02.11 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Alongwith Misc Order No ST/12/2011

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
M/S. GAUTAM AUTO
E-41/6, OKHLA INDUSTRIAL
AREA, PHASE-II, NEW DELHI
110020
2. Adv. / Consult Sh. R. Krishnan, Adv. C/O Respondent
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)

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

ST/COD/202/2010 in & Service Tax Appeal No.807 of 2010 with C.O.196/10

[Arising out of Order-in-Appeal No. 300/ST/DLH/2009 dated 17.12.2009 passed by the Commissioner (Appeals) Central Excsie, Delhi-II].

Date of Hearing: 31st January, 2011

For approval and signature:

Hon'ble Shri D.N. Panda, Judicial Member;
Hon'ble Shri Mathew John, Technical Member

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 should 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 Departmental authorities?	

C.S.T., Delhi — Appellant

Vs.

M/s. Gautam Auto — Respondent

Present for the Appellant :Shri B.L. Soni, D.R.
Present for the Respondent :Shri R. Krishnan, Advocate

Coram: Hon'ble Shri D.N. Panda, Judicial Member;
Hon'ble Shri Mathew John, Technical Member

Misc order No. ST/12/11

FINAL ORDER NO. ST/32/11

Per D.N. Panda:

Revenue has come up in appeal with delay. The COD application does not disclose the number of days of delay, nor there is any cogent reason given for delay in the application. The application is only of one paragraph. The flimsy reason has been shown indicating review order passed by the Committee on 25.3.2010, and thereafter it took sometime to prepare appeal and get approved. Today, date chart, filed indicates total negligence in seeking appeal. Learned Counsel explains that as against penalty imposed under Section 76 and 78 of Finance Act, 1994 the appellant has lost his appeal in respect of imposition of penalty under Section 78 and they are not in appeal before the Tribunal. However, the respondent is on cross objection. Revenue's appeal is only against imposition of penalty under Section 76 of the Finance Act, 1994. The date chart filed does not at all disclose consciousness of Revenue to seek remedy before the limitation expired. Similar failure is also indicative from the date chart proving no consciousness even after limitation. Consequently, Misc. application for condonation of delay is dismissed. So also, appeal gets dismissed. In view of the above, cross objection is also dismissed.

(Pronounced in the open Court)

(D.N.PANDA)
JUDICIAL MEMBER

(MATHEW JOHN)
TECHNICAL MEMBER

RK