

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
Respondent

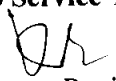
M/S. GAUTAM AUTO

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 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. 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

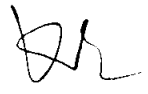
10. Easy Service Tax Online Dot Com Pvt.Ltd.407A, Iscon Mall, Above Star India Bazar, Satellite Road,
Ahmedabad-15

11. LAWCRUX Advisors Pvt Ltd, LAW House.1-8, Sector - 10, Faridabad 121003 (Harvana)

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.96/10**

[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 got approved. Today, date chart¹ 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 charge² filed does not at all *disclose* consciousness of Revenue to seek remedy before the limitation expired³. 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