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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

Date 14/02/2011

Appeal No. ST/299 /2010 , ST/COD/76/10- CU[DB]

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

To :
C.C.E. LUDHIANA
CENTRAL EXCISE HOUSE, 'F' BLOCK, RISHI NAGAR,
LUDHIANA 141001 (PUNJAB)

C.C.E. LUDHIANA Appellant

Vs

M/S GLOBAL MONEY, Respondent

I am directed to transmit herewith a certified copy of **Final order No. ST/36/ 2011 CU[DB]** dated 03.02.11 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/14/11

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
M/S GLOBAL MONEY,
THROUGH SURINDER SINGH,
1191 URBAN ESTATE PHASE-1,
JALANDHAR.(PB)
2. Adv. / Consult
MR.SURINDER SINGH ADV.
1191 URBAN ESTATE PHASE-I,
JALANDHAR
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.
DIVISON BENCH

ST/COD/76/2010 in Appeal No.ST/299/2010

(Arising out of Order-in-Appeal No.42/ST/APPL/JAL/2009 dated 31.03.2009 passed by the CCE (A), Chandigarh)

Date of Hearing/Decision: 17.01.2011

For approval and signature:
Hon'ble Mrs.Archana Wadhawa, 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?	No

CCE, Ludhiana — Appellant

Vs.

M/s.Global Money — Respondent

Present for the Appellant: Shri Fateh Singh, SDR
Present for the Respondent: None

Coram:Hon'ble Mrs.Archana Wadhawa, Member(Judicial)
Hon'ble Mr.M.Veeraiyan, Member (Technical)

Misc order No. ST/14/11
Final **ORDER NO.** ST/36/11

PER: M.VEERAIYAN

This is an appeal by the department against the order of the Commissioner (Appeals) No.42/ST/APPL/JAL/2009 dated 31.03.2009 by which the order of the original authority dt.30.9.08 confirming the demand of Rs.26,117/- alongwith interest and imposing penalties under sections 76, 77, and 78 of the Finance Act was set aside.

2. There is a delay of 86 days in filing the appeal and the application for condonation of delay stands filed.

3.1 Heard the learned SDR on the application for condonation of delay. None appears for the respondents in spite of notice. The reasons given for the delay are that the order of the Commissioner (Appeals) dt.31.8.09 was received in the office of the Commissioner on 9.9.09 and the empowered Committee of the Commissioners examined the order of the Commissioner (Appeals) for the purpose of filing the appeal in terms of Section 35E of Central Excise Act, 1944 and decided on 9.9.09 not to file appeal.

3.2. Later on the Committee of Commissioners in the light of non acceptance of CESTAT Final Order No.1382-86/08 dated 04.11.08 in the case of M/s.Nipuna Services Ltd. and CESTAT Final Order No.1115-16/09 dated 18.08.09 in the case of Muthoot Fin Corp Ltd. against which the department had field appeals before the Hon'le High Court of Andhra Pradesh and Hon'ble High Court of Kerala respectively took a different view on the issue and filed an appeal against OIA No.204/CE/LDH/09 dated 12.010.09 in the case of M/s.Paradise Radios, Phagwara (Punjab).

3.3 In the light of the above developments a decision to file appeal was taken in the meeting of the committee held at Chandigarh on 19.1.10 and directions were issued for filing appeal on 17.2.10 thus overruling the decision taken on 9.9.09. Therefore, there was delay of 86 days in filing the appeal that is from 8.12.09 to 3.3.10.

3.4. Learned SDR submits that the Tribunal has power to condone the delay in the light of the decision of the Larger Bench in the case of CCE, Raipur vs. Monnet Ispat & Energy Ltd. reported in 2010 (257) ELT 239 (Tri.-LB).

4. We have carefully considered the submissions of the learned DR and perused the records. Condonation of delay, no doubt, can be considered by the Tribunal as held in the case of Monnet Ispat & Energy Ltd. cited supra provided sufficient cause for the delay is explained. However, in the present case, we find that the Committee of Commissioners have taken decision on 9.9.09 against filing the appeal. The said decision has been revised by the Committee in a subsequent meeting held on 19.1.10. If this ground is accepted as sufficient for condonation of delay it may lead to reopening of many cases where the department has chosen not to file appeal. It is, therefore, held that no sufficient cause has been shown to condone the delay.

5. Therefore we hold that it is not fit case for condoning the delay in filing the appeal and thus the application for condonation of delay is rejected. Consequently, the appeal of the department is rejected as bared by limitation.

(Pronounced in the open court)

(ARCHANA WADHAWA)
MEMBER (JUDICIAL)

(M.VEERAIYAN)
MEMBER (TECHNICAL)

mk

TELEGRAM : CEGCANAL

REGISTERED / AD

Website : www.cestat.gov.in

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 : 13/09/2011

MISC Order No. ST/149/2011

Application ST/ROM/16/2011 - CU In

Appeal No. ST/299/2010 - CU[DB]

1. Appellant

   C.C.E. LUDHIANA

   CENTRAL EXCISE HOUSE, 'F' BLOCK, RISHI NAGAR, LUDHIANA 141001 (PUNJAB)

2. Respondent

   M/S GLOBAL MONEY,

   THROUGH SURINDER SINGH, 1191 URBAN ESTATE PHASE-1, JALANDHAR.(PB)

3. Adv / Consult :

   MR.SURINDER SINGH ADV.

   1191 URBAN ESTATE PHASE-I, JALANDHAR

4. C.D.R
5. Bar Association, CESTAT, New Delhi.
6. Director Publications, Customs, Excise. I.P. Estate, New Delhi
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Assistant Registrar
(Customs Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing : 19.8.2011

No. ST/ROM/16/2011 in ST/299/2010

(Arising out of Final Order No. ST/36/2011 dated 27.1.2011 passed by the CESTAT, New Delhi)

CCE, Ludhiana — Appellant/Applicant

Vs.

M/s Global Money — Respondent

Appearance

Appeared for Appellant : Shri Sunil Kumar, DR

Appeared for Respondent : None

CORAM: HON'BLE MS. ARCHANA WADHWA, MEMBER (JUDICIAL)
HON'BLE SHRI MATHEW JOHN, MEMBER (TECHNICAL)

Misc Order No. ST/1149/11 dated 8.9.11

Per Archana Wadhwa:

The present ROM application stand filed by the Deputy Commissioner, Central Excise Division, Jalandhar in respect of Order No. ST/36/2011 dated 17.1.2011 passed by the Tribunal vide which the Appeal filed by the department was rejected. It is seen that the preamble of the said order refers the impugned order as Order-in-Appeal No. 42/ST/APPL/JAL/2009 dated 31.3.2009 whereas the correct

Order-in-Appeal No. is 164/CE/LDH/2009 dated 31.8.2009. Accordingly, the Revenue has made a prayer to rectify the said typographical error.

2. Inasmuch as the said error is apparent from records, we allow the application and hold that the impugned order in the preamble and in the first para of Tribunal's Final Order No. ST/36/2011 dated 17.1.2011 would be read as "Order-in-Appeal No. 164/CE/LDH/2009" instead of Order-in-Appeal No. 42/ST/APPL/JAL/2009. The ROM application is allowed in the above terms.

(Pronounced in Court)

(Archana Wadhwa)
Member (Judicial)

(Mathew John)
Member (Technical)

RM