

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

Appeal No. C/STAY/2302/2011 IN C/432 /2011,
C/STAY/2427/2011 IN C/458/2011- CU[DB]

Date **22/12/2011**

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

To :
C.C. (ICD) NEW DELHI
ICD, TUGHLAKABAD, NEW DELHI 110020.
C.C. (ICD) NEW DELHI

Appellant
Vs
Respondent

JAY CEE ENTERPRISES PVT. LTD. **STAY ORDER NO.C/458-459/2011**

I am directed to transmit herewith a certified copy of **Final order No.C/526-527/ 2011 CU[DB]** dated 16.12.2011
passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**


Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
JAY CEE ENTERPRISES PVT. LTD.
E-357, GREATER KAILASH-II,
NEW DELHI.
110048
2. Adv. / Consult **MOHAN LAL & ASSOCIATES,**
B-67, FLATTED FACTORY COMPLEX,
OKHLA PHASE-III, NEW DELHI – 110 020.
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. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005
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
(Customs Appeal Branch)

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL**

Date of Hearing: 12.12.2011

Date of Decision: 12.12.2011

**Customs Stay Applications Nos. 2302 of 2011
Customs Appeal No. 432 of 2011 &
Customs Stay Application No. 2427 of 2011 in
Appeal No. 458 of 2011**

CC, New Delhi

Appellant

Versus

M/s. Jay Cee Enterprises (P) Ltd.

Respondent

Appearance: Rep. by Shri K.P. Singh, DR for the appellant.
Rep. by Shri Mohan Lal, Advocate for the
respondent.

**CORAM : Hon'ble Shri D.N. Panda, Judicial Member
Hon'ble Shri Rakesh Kumar, Technical Member**

Stay order No. C/452-459/11
Final Order No. C/526-527/11 Dated : 12.12.2011

Per. D.N. Panda

In these two appeals Revenue's grievance is that first Appellate Authority should not have remanded the matter to the original authority. Therefore, not only the impugned order should be set aside, appeal be decided in favour of Revenue.

2. Ld. Counsel on behalf of the respondent states that for no opportunity granted at the appellate stage, relevant documents

could not be adduced by the appellant. As a result, the adjudication order prejudiced the respondent.

3. Heard both sides and perused the records.

4. Violation of principles of natural justice at the adjudication stage in both the cases is patent for which the respondent deserve hearing before the Original Authority. It is established principle of law that violation of natural justice is incurable at the appellate stage. Therefore, learned first Appellate Authority properly sent the matter back to the original authority for grant of opportunity and to pass an appropriate order.

5. On the factual matrix as mentioned above, both the stay applications of the Revenue are rejected and the order of the first Appellate Authority is upheld sending the matter back to the Original Adjudicating Authority to hear the respondent following the principles of natural justice and pass an appropriate order.

[Dictated and pronounced in the open court]

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

Ckp.