

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

Appeal No. C/S/1709/2011 IN C/290 /2011 - CU[DB]

Date 23/12/2011

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

To :
SH. MOHAN UPADHAYA, DIRECTOR OF,
M/S MOHAN KRISHNA CARGO MOVERS PVT. LTD.,
319B, CONCOR BUILDING ICD, TKD, NEW DELHI.

SH. MOHAN UPADHAYA, DIRECTOR OF,

Appellant

Vs

Respondent

C.C. (ICD) NEW DELHI

STAY ORDER NO.C/469/2011

I am directed to transmit herewith a certified copy of **Final order No.C/532/ 2011 CU[DB]** dated 21.12.2011

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

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

2. Adv. / Consult

MR.YOGITA & UPASANA KANG (ADVOCATES)

V-5, GREEN PARK MAIN,
NEW DELHI-110016

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

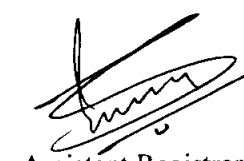
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A, Iscon Mall, Above Star India Bazar, Satellite Road,
Ahmedabad-15

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)

**CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Court No.III**

C/Stay No.1709/2011 in C/A No. 290/2011

(Arising out of order in original No.6/TKD/Adj/Comm/49/08 passed by the Commissioner of Customs & Central Excise, New Delhi)

Date of Hearing: 29.11.2011

For Approval and signature:

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

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|----|--|------|
| 1. | Whether Press Reporters may be allowed to see The order for publication as per Rule 27 of the CESTAT(Procedure) Rules, 1982? | Yes |
| 2. | Whether it would 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 Department Authorities? | No |

Shri Mohan Upadhaya, Director
M/s Mohan Krishna Cargo Movers Pvt Ltd

Appellants

Vs

CC, New Delhi

Respondent

Appeared for the Appellant: Shri T.P.S. Kang, Advocate
Appeared for the Respondent: Shri K.P. Singh, DR

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

Stay order No. C/469/11
Final ORDER No. C/532/11

Per D.N. Panda:

Learned Counsel submits that the appellant was innocent and also suffering from financial hardship. He shall face undue hardship if he is asked to deposit penalty of Rs. 12 lakhs imposed on him under Section 112(b) of the Customs Act, 1962.

2. Keeping the gravity of the matter and also considering that the evidence shall be looked into in detail, we direct the appellant to deposit Rs. 2 lakhs within six weeks from today and produce the challan before the learned adjudicating authority within a week thereafter with an application to fix the hearing. Since the appellant's primary grievance is that copies of the documents referred to in its application dated 25.10.07 have not been provided, in the interest of justice, we remit the matter back to the learned adjudicating authority to provide copies of all the relevant documents mentioned in the above application to enable the appellant to defend its case.

3. Only if the deposit directed aforesaid is made within time and challan is placed before the adjudicating authority, re-adjudication shall be done otherwise the appeal shall stand dismissed.

3. Learned Counsel fairly states that there are other consequences that have flown from the same order dated 29.11.10. Appeals in those cases are also pending. If this matter is detached and sent back that shall not cause prejudice to the Revenue since violation of principles of natural justice is grievance in the present appeal. Considering such a fair submission, without expressing any opinion on other appeals, order as above has been passed *in absence of objection by Revenue*.

4. We make it clear to Revenue that anxiety expressed by this order should be placed before the Bench hearing rest of the appeals flowing from the same adjudication order.

5. Registry is also required to mention in cause list about this order when rest of the appeals are listed.

(Order dictated and pronounced in the open Court.)

(MATHEW JOHN)
Member Technical
MPS*

(D.N. PANDA)
Member Judicial