

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

Appeal No. E/683 /2011 - EX[DB] WITH
E/COD/972011, E/S/788/2011-EX

Date 09/09/2011

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

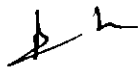
To :
M/S EASTERN ENGINEERING WORKS,
C-68, WAZIRPUR INDUSTRIAL AREA, DELHI.
110052

M/S EASTERN ENGINEERING WORKS,
C.C.E. DELHI I

MISC ORDER NO. 456/2011-EX
STAY ORDER NO. 852/2011-EX

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No.792/ 2011 EX[DB] dated 08-9-11
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

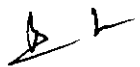

Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
C.C.E. DELHI I
C.R. BUILDING, I.P. ESTATE, NEW
DELHI 110002

2. Adv. / Consult SH. SANJEEV JAIN, ADV,
84, DARYAGANJ, N.DELHI - 2

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
(Excise Appeal Branch)

**CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL,
West Block No. 2, R.K. Puram,
NEW DELHI**

**E/COD/97/2011 & E/Stay/788/2011
in Central Excise appeal No. 683 of 2011**

Date of hearing/decision: 5th September, 2011

M/s. Eastern Engg. Works Appellants
Reptd. By Shri Sanjeev Jain, Advocates

Versus

CCE, Delhi-I Respondent
Rept. By Shri I Beg, DR

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

MISC. ORDER NO. 456/2011 & S.D. No. /852/2011-EX
FINAL ORDER NO. 792/2011-EX DATED

Per D.N. Panda:

Misc./COD application praying for condonation of delay of 75 days is on the ground that the ^{proprietor of the} appellant suffered from spinal injury for which ^{he} ~~it~~ was prevented to file the appeal. Medical certificate accompanying ^{the petition} ~~it~~ does not show on which date it was issued. Two medical certificates are enclosed with the application. Medical certificates disclose only that there was a chronic back ache to Shri Sunil Kumar Bansal. When medical certificates do not disclose date of issue it cannot be ascertained whether those were obtained soon after recovery or on any other date. Application for condonation of delay came before the Tribunal on 28.1.2011 whereas Shri Sunil Kumar Bansal was suffering from acute back pain from 13.12.2010.

2. The application does not explain by affidavit about the consciousness of the appellant before expiry and after expiry of limitation. When the appellant received Order-in-Appeal on 6.8.2010 medical certificates show that the appellant was well but became sick from 1.11.2010. Limitation expired on 5.11.2010. When before four days of expiry of limitation the appellant underwent treatment there is absence of proper explanation for cause of delay. The undated medical certificate does not come to rescue of the appellant. The application being bald exhibits negligence of the appellant. Accordingly we reject the application, and consequently, both stay application as well as appeal ^{have} become infructuous for which both are dismissed.

(Dictated & pronounced in the Open Court.)

(D.N. PANDA)
JUDICIAL MEMBER

(~~MATHEW~~ JOHN)
TECHNICAL MEMBER

RK