

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

Appeal No. E/3646/2010-3647/2010 - EX[DB] *WITH*
E/S/ 3447-3448/2010-EX

Date **30/09/2011**

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

To :
M/S KUNDAN CASTING PVT. LTD.,
B-52/53, UPSIDC, INDUSTRIAL AREA, MALWAN,
FATEHPUR, UTTAR PRADESH.
M/S KUNDAN CASTING PVT. LTD.,

Appellant

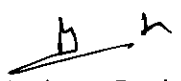
Vs

C.C.E. LUCKNOW

STAY ORDER NO. 988-989/2011-EX.

Respondent

I am directed to transmit herewith a certified copy of **Final order No.835-836/ 2011 EX[DB]** dated 27-9-11
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. LUCKNOW

7-A, ASHOK MARG, LUCKNOW.

2. Adv. / Consult

SH. BIPIN GARG, ADV.,
B-1/1289A, VASANT KUNJ,
N. DELHI - 70

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

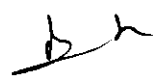
10. LAWCRUX Advisors Pvt Ltd, LAW House.1-8.Sector - 10, Faridabad 121003 (Haryana)

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

14. SHRI NAVIN JAIN DIRECTOR OF,
M/S KUNDAN CASTING PVT. LTD. B-52/53,
UPSIDC, INDUSTRIAL AREA, MALWAN, FATEHPUR, UTTAR PRADESH.


Assistant Registrar
(Excise Appeal Branch)

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

COURT-II

**E/Stay No. 3447-3448/2010 in
Central Excise appeal No. 3646-3647 of 2010**

Date of hearing/decision: 23rd September, 2011

1) M/s. Kundan Casting Pvt. Ltd.,
2) Shri Navin Jain, Director

Appellants

Versus

CCE, Lucknow

Respondent

Appearance:

Shri Bipin Garg, Advocate for the appellant;
Shri I. Baig, DR for the respondent

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

STAY order No. 988989/2011-EX
FINAL ORDER NO. 835-836/2011-EX DATED

Per D.N. Panda:

Learned Counsel says that the appeal was dismissed for failure to make deposit of directed amount in terms of Para 6 of the order dated 3.6.2010. The appellant has a strong case which should not have been dismissed by the appellate authority without looking into the merit thoroughly.

2. We have looked into the order to which our attention is drawn. The appellate authority felt it proper to direct the appellant to deposit 50% of the duty element as well as penalty within two weeks of stay order passed by him. When the

appellant failed to comply with its order, its appeal was dismissed. We appreciate his order since right of appeal is conditional following the Apex Court decision in the case of Vijay D. Mehta ^{1989(39)ELT178(SC).} However, keeping in view that the appellant may not be deprived of the process of justice we direct the appellant to make deposit 50% of duty amount within 4 weeks from today and produce challan before the learned appellate authority within a fortnight thereof. While producing challan, the appellant shall make application for fixing of hearing of the appeal. Grievance of the appellant ^{being that} ~~being~~ it ~~is~~ ^{is} a meritorious case it should not seek adjournment before first appellate authority. Failure to make deposit as directed above, the authority shall pass appropriate order. In the result, both stay application as well as appeal are disposed of in above terms.

3. In view of the aforesaid order stay application and appeal filed by the Director Shri Navin Jain connected to the above appeal is disposed without any direction but only upon pre-deposit by M/s. Kundan Casings P. Ltd. this appellant shall be heard, otherwise the authorities shall pass appropriate order.

(Dictated & pronounced in the Open Court.)

(D.N. PANDA)
JUDICIAL MEMBER

(MATHEW JOHN)
TECHNICAL MEMBER

RK