

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

Appeal No. E/3807/2010 - EX[DB] WITH
E/S/3624/2010 7 E/M/923/2010-EX

Date 11/10/2011

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

To :
M/S RAJDHANI ENGINEERING WORKS,
AT C-216, HARI TOWER, NEW DELHI. THROUGH ITS
PROP. SH. BANWARI LAL.
110064

M/S RAJDHANI ENGINEERING WORKS,

C.C.E. DELHI II

MISC ORDER NO. 505/2011-EX
STAY ORDER NO. 1034/2011-EX

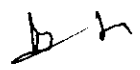
Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No.860/ 2011 EX[DB] dated 01-10-11
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 II
C.R. BUILDING, I.P. ESTATE, NEW
DELHI 110002
2. Adv. / Consult *SH. R.K. SHARMA, ADV,
CHAMBER NO. 375, CIVIL WING
TIS HAGARI, DELHI-54*
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)

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

Date of Hearing : 20.9.2011

**Excise Misc. No. 923 of 2010, Stay No. 3624 of 2010 in Excise Appeal
No. 3807 of 2010**

M/s Rajdhani Engineering Works

Appellant/Applicant

Vs.

CCE, Delhi-II

Respondent

Appearance

Appeared for Appellant : Shri R.K. Sharma, Advocate

Appeared for Respondent : Shri Sumit Kumar, DR

CORAM: HON'BLE SHRI D.N. PANDA, JUDICIAL MEMBER
HON'BLE SHRI MATHEW JOHN, TECHNICAL MEMBER

Misc. Order No. 505/2011-EX
STAY Order No. 1034/2011-EX
FINAL Order No. 860/2011-EX, dated.....

Per D.N. Panda :

Ld. Counsel mentions that there are certain evidence available with the Appellant for production to lead its defence. If an opportunity is granted, the Appellant expects success before the Adjudicating Authority itself. Therefore, when the Appellant had deposited Rs. 2.00 lakhs, he should have remanded the matter for re-adjudication.

2. We have gone through the Adjudication order. The material finding in the Adjudication order occurred for no cooperation of the Appellant and resulted with duty demand of Rs.15,20,936.90 and penalty of Rs.1,50,000/- under Rule 173Q and penalty of Rs.50,000/- on the proprietor of the appellant concerned. We do not find any material on record to come to rescue of the Appellant for no evidence available showing cooperation of the Appellant in the ^{course} of Adjudication.

3. When the Appellant prays for an opportunity to lead its defence we do not propose to deprive it if the appellant makes deposit of Rs.5.00 lakhs (Rupees Five lakhs) to protect the interest of Revenue within a period of six weeks and produce challan before the Adjudicating Authority for fixation of date hearing. If the appellant fails to produce the challan before that Authority this order shall stand vacated and the appellant's appeal stand dismissed.

4. The Appellant shall make an application before the adjudicating authority attaching ^{the deposit} ~~with~~ challan for fixation of date of hearing as directed above and without fail shall cooperate for the re-adjudication hearing. If copy of any document is required or inspection is required that shall be permitted in accordance with law.

5. We expect that the Appellant shall cooperate for re-adjudication and that shall be completed by March, 2012^{and} the Authority shall pass order within three months thereof.

6. In the result, stay application is disposed of in the manner indicated above and also the appeal remanded to the adjudicating authority. We have passed aforesaid order following the principles of law laid down by Hon'ble High Court of Punjab & Haryana in the case of **Shiv Sewa Sadan Vs. CESTAT, New Delhi** reported in 2010 (254) ELT 249 (P&H).

(Dictated & pronounced in open Court)

(D.N. Panda)
Judicial Member

(Mathew John)
Technical Member

RM