14

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

Appeal No. E/1195/2011 - EX[DB] WITH E/S/1527/2011-EX   Date **15/12/2011**

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

To :
M/S J.K. TYRE & INDUSTRIES LTD.,
C-1, INDUSTRIAL AREA, BANMORE DISTT.
MORENA.
476444

M/S J.K. TYRE & INDUSTRIES LTD.,   Appellant

Vs

C.C.E. INDORE   **STAY ORDER NO. 1417/2011-EX**   Respondent

I am directed to transmit herewith a certified copy of **Final order No.1020/ 2011 EX|DB|** dated 09-12-11 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. INDORE
MANIK BAGH PALACE, POST
BOX NO. 10, INDORE 452001 (M.P.)

2. Adv. / Consult

3. C.D.R
4. Bar association. CESTAT. New Delhi
5. Director Publications. Customs. Excise. I.P. Estate. New Delhi
6. M/s Centax Publictions 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

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 : 18.11.2011

Excise Stay No. 1527 of 2011 and Excise Appeal No. 1195 of 2011

[Arising out of Order-in-Appeal No. IND-473/2010 dated 24.12.2011 passed by the Commissioner (Appeals), Central Excise & Customs, Indore]

Coram:
Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Mathew John, Technical Member

1.	Whether Press Reporter 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 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

J.K. Tyre & Industries Ltd. Appellant

Vs.

CCE, Indore Respondent

Appearance:

Appeared for Appellant : Shri J.N. Kaushik, Co. Rep.
Appeared for Respondent : Shri I. Baig, DR

Coram:
Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Mathew John, Member (Technical)

STAY order No. 1417/2011 EX
FINAL Order No. 1020/2011 EX.....dated............

Per **Mathew John:**

After hearing both the sides briefly on the matter we find that there is a very short involving revenue of Rs.20,481/- is involved in this matter and it is proper to dispose of both stay petition and the appeal together. So we waive requirement of pre-deposit and take up the appeal itself for disposal. Accordingly both stay application and appeal are disposed of.

2. The Appellants are engaged in the manufacture of tyres, tubes and flaps falling under Chapter 40 of the Central Excise Tariff. They had supplied tyres of value of Rs.1,98,840/- claiming exemption under Notification No. 108/95-CE dated 28.8.95. This notification is available for projects funded by the World Bank. At the time of clearance of their goods they could not produce the original of the certificate required to claim the exemption, but only photo copy was submitted. The certificate issued by the competent authority was issued for three units of the appellant situated at Bangalore, Kankroli and Banmore without indicating specified quantity of goods to be cleared from each of the factories. Therefore, the Revenue was of the view that exemption availed was improper and a show cause notice was issued demanding excise duty amounting to Rs.20,481/- along with appropriate interest. Further, penalty under Rule 25(a) of Central Excise Rules 2002 was also proposed. The matter was adjudicated confirming demand of Rs.20,481/- and imposing a penalty of Rs.2000/-. Aggrieved by the order, the appellants filed an appeal before the Commissioner (Appeals)

who rejected the appeal. Aggrieved by the order of the Commissioner (Appeals), the appellants have filed this appeal.

3. The submission of the appellants is that they have cleared the quantity as authorised by the certificate and the concerned certificate could not be produced at the time of clearance because the original copy of the letter was with one of their other units. They submit that the Revenue has not made out any case that the certificate is false or that they have cleared the quantity in excess what is authorised by the certificate.

4. The authorised representative for Revenue reiterates the arguments given in the order-in-appeal in support of Revenue.

5. We have considered arguments on both sides, we find that the Revenue has raised a very travail for a matter involving revenue of only Rs.20,481/- in times when the policy of the Revenue is to trust the assessees. There was no reason to raise such demands on the ground that the certifying authority did not issue separate certificates for each factory of the Appellants or only photo copy was produced and not the original. Since no actual loss of revenue has been brought out in the

proceedings, we set aside the orders passed by the lower authorities to give relief to the Appellants from all dues arising out of the proceeding.

(Pronounced in Court)

(Archana Wadhwa)
Member (Judicial)

(Mathew John)
Member (Technical)

RM