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

No. ST/1569/2011 - CU[DB]
ST/S/3306/2011

Date **15/05/2012**

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

To :
M/S BALRAMPUR CHINI MILLS LTD.

UNIT-BALRAMPUR, DISTT. BALRAMPUR (U.P.)

M/S BALRAMPUR CHINI MILLS LTD. Appellant

Vs

C.C.E ALLAHABAD Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/A/374/ 2012 CU[DB]** dated 09.05.12 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Alongwith Stay Order No ST/S/528/12

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
C.C.E ALLAHABAD
38,M.G.MARG, CIVIL LINES,
ALLAHABAD

2. Adv. / Consult
MR.BIPIN GARG
B-1/1289,A-VASANT KUNJ, NEW DELHI

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-3
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
(Customs Appeal Branch)

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

Stay application No.3306 of 2011
Service Tax Appeal No. 1569 of 2011

[Arising out of Order-In-Appeal No.97/ST/ALLD/2011, dated 28.07.11 issued by CCE, Allahabad.]

For approval and signature:
Hon'ble Mr. D.N.Panda, Judicial Member
Hon'ble Mr. Mathew John, Technical Member

1	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3	Whether Their Lordships wish to see the fair copy of the Order?	
4	Whether Order is to be circulated to the Departmental authorities?	

M/s Balrampur Chini Mills Ltd. — Appellant
Versus
CCE, Allahabad — Respondent

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

Present for the Appellant - Shri Bipin Garg, Adv. & Ms Sukriti Das, Adv.
Present for Respondent - Shri Amresh Jain, DR

Date of Hearing / Decision : 09.05.2012.

Final **Order No.** ST/A/374/12-Cus **Dated :**____________

Per D.N. Panda: Stay order No. ST/S/528/12-Cus.

Shri Garg invites our attention to the Order-in-Appeal to show that while the appellate authority's observation was that pre-deposit order was not carried out, appeal was decided on merits and dismissed. According to him, an amount of Rs.9.73 lakhs has already been deposited which may not prejudice interest of

Revenue to hear the appellant on merits. He raises several issues about taxing under the category of 'banking and financial service' which deserves consideration. We have not second opinion to grant fair opportunity to the appellant. Looking to the appropriation of Rs.9,73,951/- made at page 9 of the adjudication order, it would be proper for ld. Commissioner(Appeals) to hear the matter on merits granting fair opportunity of hearing to the appellant so that the issue shall be resolved on proper context. In view of the natural process of justice to be followed, we dispose stay application and appeal with the above direction. Appellant shall appear before the appellate authority and file an application within four weeks of receipt of this order praying to fix the date of hearing. If such an application is made, the authority shall grant reasonable opportunity of hearing issuing notice so that the appellant can lead its defence and argue the matter to enable him to pass the order.

(Dictated and pronounced in the Open Court)

(D.N.Panda)
Judicial Member

(Mathew John)
Technical Member

RK-I