

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

Date 09/01/2012

Appeal No. E/2751-2752/2010 - EX[DB]
E/S/2531-2532/2010-EX

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

To :
N.T.P.C. LIMITED
P.O. VIDUT NAGAR, DISTT. GAUTAMBUDH NAGAR
N.T.P.C. LIMITED

Appellant

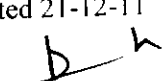
Vs
Respondent

C.C.E. GHAZIABAD

STAY ORDER NO. 23-24/2012-EX

I am directed to transmit herewith a certified copy of **Final order No. A/9-10/**
passed by the Tribunal under **Section 35-C(1) of Central Excises Act, 1944**

2012 EX[DB] dated 21-12-11


Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

C.C.E. GHAZIABAD

C.G. O. COMPLEX-II, KAMLA
NEHRU NAGAR, GHAZIABAD
201302

2. Adv. / Consult

MRS.S.V.ARYA,ADVOCATE

CC-56, AVANTIKA, NEAR CHIRANJEEV VIHAR, HAPUR ROAD,
GHAZIABAD.201002(UP)

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-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

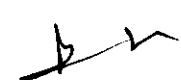
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A, Iscon Mall, Above Star India Bazar, Satellite Road,
Ahmedabad-15

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
(Excise Appeal Branch)

**CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Court No.I**

E/Stay No.2531/2010 in E/Appeal No.2751/2010

(Arising out of order in appeal No.69/Gzb/2010 dated 12.5.2010
passed by the Commissioner of Central Excise (Appeals), Ghaziabad)

Date of Hearing: 15.12.2011

M/s N.T.P.C Ltd

Appellants

Vs

CCE, Ghaziabad

Respondent

E/Stay No.2532/2010 in E/Appeal No.2752/2010

M/s N.T.P.C Ltd

Appellants

Vs

CCE, Ghaziabad

Respondent

appeared for the Appellant: None
Appeared for the Respondent: Shri I. Beg , DR

Coram: **Hon'ble Mr. S.S. Kang, Vice President**
Hon'ble Mr. Mathew John, Member (Technical)

STAY ORDER No. 23-24/2012-EX (BR)
FINAL ORDER No. A/9-10/2012-EX (BR)

Per S.S. Kang:

Heard the learned SDR. The applicant filed this application for waiver of pre-deposit of Rs. 3,03,287/- along with interest and penalty. The appeal filed by the appellant before the Commissioner (Appeals) is dismissed as time barred.

2. We find that the adjudication order was received by the appellant on 3.12.2009 and the appeal is filed on 2.2.2001. As per Section 35-F of Central Excise Act, the appeal is to be filed within 60

days from the date of communication of the impugned order. Taking into consideration the dates mentioned in the impugned order, there is a delay of one day in filing the appeal before the Commissioner (Appeals) and Commissioner (Appeals) is empowered to condone the delay of 30 days after the normal period on showing sufficient cause. As there is only one day delay in filing the appeal and the reason for delay is explained by the appellant, National Thermal Power Corporation. In these circumstances, we find that delay of one day is condonable and we condone the same. The Commissioner (Appeals) has not decided the appeal on merits.

3. After waiving of requirement of pre-deposit of duty, interest and penalty, we remand the matter to the Commissioner (Appeals) to decide the application for waiver of pre-deposit of dues on merits after affording an opportunity of hearing to the appellant and thereafter decide the appeal.

(Order dictated and pronounced in the open Court.)

(S.S. KANG)
Vice President

(MATHEW JOHN)
Technical Member

MPS*