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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

Date **25/01/2012**

Appeal No. E/466 /2010 - EX[DB]
E/S/478/2010-EX

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

To :
M/S JBM AUTO LTD.
PLOT NO. 118, HSIDC INDUSTRIAL ESTATE,
SECTOR-59, FARIDABAD (HARYANA)

M/S JBM AUTO LTD. Appellant

Vs

C.C.E. DELHI IV Respondent

STAY ORDER NO. 126/2012-EX

I am directed to transmit herewith a certified copy of **Final order No.** A/49/ **2012** **EX|DB|** dated 24-1-12 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 IV
NEW CGO COMPLEX, NH-IV,
FARIDABAD, HARYANA 121001.

2. Adv. / Consult
MR.V. LAXMIKUMARAN
B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029

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
(Excise Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. III

Excise Appeal No. 466 of 2010
Excise Stay Application No. 478 of 2010

[Arising out of Order-in-Original No. 50/NS/Adjn/2009 dated 26.11.2009 passed by the Commissioner of Customs & Central Excise, (Delhi IV), Faridabad]

For approval and signature:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Sahab Singh, Member (Technical)

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1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? : No

2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? : No

3. Whether Their Lordships wish to see the fair copy of the Order? : Seen

4. Whether Order is to be circulated to the Departmental authorities? : Yes

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M/s. JBM Auto Ltd. Appellants

Vs.

Commissioner of Central Excise Respondent
Delhi IV

Appearance:
Shri B.L. Narasimhan, Advocate for the Appellants
Shri Sunil Kumar, SDR for the Respondent

CORAM:
Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Sahab Singh, Member (Technical)

Date of Hearing/decision : 23.01.2012

STAY ORAL ORDER No. 126/2012-EX (BR)

FINAL **ORAL ORDER NO. A/49/2012-EX (BR)**

Per Archana Wadhwa (for the Bench):

After hearing both sides, we find that the issue as regards the assessable value of the bodies manufactured by the appellant on job work basis and cleared to the principle manufacturer stand decided against the appellant by the earlier decision of the Tribunal in the case of M/s. Audi Automobiles as reported in [2010 (249) ELT 124 (Tri-Del)]. Learned Advocate appearing for the appellant does not dispute the above legal position but assails the impugned order on the point of limitation.

2. We find that the demand stands raised against the appellant by invoking the longer period of limitation except a part amount, which would fall within the limitation period. We have already dealt with an identical issue in the same appellants case and has remanded the matter to the Commissioner for decision on the point of limitation inasmuch as the adjudicating authority has not deal with the appellants plea of limitation. We have also seen a letter written by the appellant in April, 2007, immediately after the insertion of Rule 10A wherein they have clarified adoption of assessable value on the basis of the price equal to the cost of chassis plus job work charges. We find that such letter nowhere stand discussed by the Commissioner. We also note that vide Final Order No. 833 /11 Ex dated 26.9.2011 passed in the same appellant's case (other unit), the matters stands remanded for deciding

the issue of limitation. We, by following the earlier order, set aside the impugned order and remand the matter to the Commissioner for adjudicating the appellant's plea on limitation after taking into consideration the communications made by the appellants in April, 2007.

3. Appeal is thus allowed by way of remand. Stay petition also gets disposed of.

(Pronounced in the open Court)

(Archana Wadhwa)
Member(Judicial)

(Sahab Singh)
Member(Technical)

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