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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/234 /2010& 236-242 /2010 - EX[DB]   Date 07/02/2012

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

To :
M/S. SUNRISE FOOD PRODUCTS
(A. DIV. OF SHREE RAJ EXPORTS), E-679, DSIDC.
NARELA, NEW DELHI.

M/S. SUNRISE FOOD PRODUCTS Appellant

Vs

C.C.E. DELHI I Respondent

I am directed to transmit herewith a certified copy of **Final order No.A/111-118/ 2012 EX[DB]** dated 30-1-12 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 I
C.R. BUILDING, I.P. ESTATE, NEW
DELHI 110002

2. Adv. / Consult
MR.KAMALJEET SINGH
J-144, PATEL NAGAR -I,GHAZIABAD.

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)

P.T.O.-2,

14. SH. VINOD SHARMA
PLOT NO.40, IST FLOOR, ENGINEERING ENCLAVE, PRITAMPURA, DELHI .

15. SH. MOOL CHAND SHARMA (SUPERVISOR)
C/O.M/S. SUNRISE FOOD PRODUCTS (A DIV. OF SHREE RAJ EXPORTS), E-679, DSIDC, NARELA, NEW DELHI. .

16. SH. SANJAY AGGARWAL
PROP. M/S. SANJAY AGARWAL & CO. 437, NAYABAN KHARI BAOLI, DELHI. .

17. SH. SUNIL GEHLOT (ASTT. ACCOUNTANT),
M/S. SUNRISE FOOD PRODUCTS(A DIV. OF SHREE RAJ EXPORTS), E-679, DSIDC, NARELA, NEW DELHI. .

18. M/S. KRISHNA FREIGHT MOVERS
KHASRA NO.624, ALIPUR VILLAGE, DELHI. .

19. M/S. MOONGIPA ROADWAYS PVT. LTD.
B-30/2, WAZIRPUR INDL. AREA, NEW DELHI. .

20. SH. MRITUNJAY SINGH
C/O. M/S. SANJAY AGARWAL & CO. 437, NAYA BANS, DELHI. .

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

Excise Appeal No. 234, 236 to 242 of 2010

[Arising out of Order-in-Original No. 9 - 10 /2009 dated 22.5.2009 passed by the Commissioner of Central Excise , Delhi I]

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. Sunrise Food Prodcuts.
Shri Vinod Sharma
Shri Sanjay Agarwal
M/s. Moongipa Roadways P. Ltd.,
M/S Krishna Freight Movers
Shri Mool Chand
Shri Sunil Gehlot
Shri Mritunjay Singh

Appellants

Vs.

Commissioner of Central Excise
Delhi I

Respondent

Appearance:
Mr. Kamaljit Singh, Advocate for the Appellants
Shri S.K.Panda, Jt.CDR for the Respondent

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

Date of Hearing/decision : 25.01.2012

FINAL **ORAL ORDER NO. A/111-118/2012-EX (BR)**

Per Archana Wadhwa (for the Bench):

Vide Stay Order No. 996-1003/11-Ex dated 13.9.11, M/s. Sunrise Food Products were directed to deposit an amount of Rs.15 crores out of total confirmed duty of more that Rs.,35 crores, within a period of 12 weeks from the date of order, as a condition of hearing of their appeals. It was also observed in para 20 of the order that subject to deposit of the above amount, the pre-deposit of balance amount of dues from the said appellant and penalties imposed upon the other appellants shall stand waived. It was made clear that if the said amount is not deposited within the time as specified above, the **Appeals** are liable to be rejected without further notice to the appellants.

2. When the matter came up today for ascertaining compliance with the above order, our attention stands drawn to the orders of Hon'ble High Court of Delhi dated 12.12.2011. While disposing of the writ petition filed by the petitioner against the above said order, the Hon'ble High Court has observed that there as no justifiable reasons to interfere with the said stay order of the Tribunal. However, the Hon'ble High Court directed the appellant to make payment of Rs.15 crores in 8 equal weekly instalments. The first instalment was required to be paid on or before 23.12.11.

3. Learned advocate appearing for the appellant submits that he does not have any instructions from his client. Inasmuch as no proof evidencing the payment of first instalment as directed by the Hon'ble High Court stands placed on the record, we find that appeals are liable to be dismissed for non-compliance with the provisions of Section 35F of Central Excise Act read with the stay order passed by the Tribunal and confirmed by the Hon'ble High Court. We accordingly, dismiss all the appeals for non-compliance.

(Pronounced in the open Court)

(Archana Wadhwa)
Member(Judicial)

(Sahab Singh)
Member(Technical)

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