

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

Appeal No. E/3788/2010 - EX[DB], E/S/3606/2010-EX

Date 09/02/2012

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

To :
M/S U.P. ASBESTOS LTD.,
MOHANLALGANJ, RAIBAREILLY ROAD, LUCKNOW.
M/S U.P. ASBESTOS LTD.,

Appellant

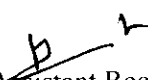
Vs
Respondent

C.C.E. LUCKNOW

STAY ORDER NO. 197/2012-EX

I am directed to transmit herewith a certified copy of Final order No.A/123
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

2012 EX[DB] dated 06-2-12

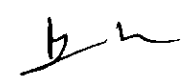

Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
C.C.E. LUCKNOW
7-A, ASHOK MARG, LUCKNOW.

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 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
West Block No.2, R. K. Puram, New Delhi.

Date of hearing/decision: 01.02.2012

For approval and signature:

Hon'ble Archana Wadhwa, Member (Judicial)
Hon'ble Shri Rakesh Kumar, Member (Technical)

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

Excise STAY No. 3606 of 2010 with
Excise APPEAL No. 3788 of 2010

(Arising out of order in appeal No. 228-CE/LKO/2010 dated 27.08.2010
passed by the Commissioner of Central Excise (Appeals), Lucknow)

M/s U.P. Asbestos Ltd.

Appellants

Vs.

CCE, Lucknow

Respondent

Appearance:

Rep. by Sh. Kamaljeet Singh, Advocate for the appellants.
Rep. by Sh. S. R. Meena, DR for the respondent.

Coram: Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Sh. Rakesh Kumar, Member (Technical)

STAY ORDER No. 197/2012-EX (BR)
FINAL ORDER NO. A/123/2012-EX (BR)

Per: Archana Wadhwa:

After hearing both sides we find that Commissioner has dismissed the appeal for non-compliance with the stay order passed by him directing the appellant to deposit 20% of the duty confirmed against them.

2. We find that an identical issue involving availability of turnover discounts in respect of same appellant came before the Tribunal and vide stay order No. 629 – 630/2011-Ex. Dated 08.06.2011 unconditional stay was granted. By applying the ratio, we allow the stay petition and proceed to decide the appeal.

3. As The Commissioner (Appeals) has not decided the appeal, we set aside the impugned order and remanded the matter for decision on merits, without insisting of any pre-deposit.

4. Stay petition as also appeal gets disposed of in the above manner.

(Dictated and pronounced in the open Court)

(Archana Wadhwa)
Member (Judicial)

(Rakesh Kumar)
Member (Technical)

Pant