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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/861 /2005 - EX[DB]

Date 13/03/2012

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

To :
C.C.E. MEERUT II
OPP. SAHEED PARK (NEAR ASHOK KI LAT) DELHI
ROAD, MEERUT (UP)
C.C.E. MEERUT II Appellant

Vs

M/S SHREE JAGDISH CEMENTS PVT.LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No. A/259/ 2012 EX[DB]** dated 07-3-12 passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
M/S SHREE JAGDISH CEMENTS PVT.LTD.
SAMBHAL DISTT-MORADABAD

2. Adv. / Consult SH. UDIT JAIN, ADV.,
A-103, DEFENCE COLONY,
N. DELHI-24

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)

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

E/Appeal No.861/2005

(Arising out of order in appeal No.309-CE/MRT-II/2004 dated 7.12.2004 passed by the Commissioner of Customs & Central Excise (Appeals), Meerut-II)

Date of Hearing: 29.2.2012

For Approval and signature:

Hon'ble Mrs. Archana Wadhwa, Member Judicial
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?	No
2.	Whether it would 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 Department Authorities?	Yes

CCE, Meerut-II — Appellants

Vs

M/s Shree Jagdish Cements Pvt Ltd — Respondent

Appeared for the Appellant: Shri Mrs. Renu, A.R
Appeared for the Respondent: Shri Udit Jain, Advocate

Coram: **Hon'ble Mrs. Archana Wadhwa, Member(Judicial)**
Hon'ble Shri Mathew John, Member (Technical)

FINAL ORDER No. A/259/2012-EX(BR)

Per Archana Wadhwa:

Being aggrieved with that part of the order of Commissioner (Appeals) vide which he has reduced the penalty from 100% to Rs. 9,16,668/-, the Revenue has filed the present appeal. Revenue's contention is that for imposition of penalty to the extent of 100% by the Original Authority for the delay of 1 day, 8 days and 2 days in depositing the amount should not have been entertained by the Appellate Authority.

2. We find that the impugned order was appealed against by the respondents challenging the penalty reduced to Rs. 4,16,668/-. The said appeal of the respondent was disposed of by the Tribunal vide its Final Order No. A/391/2005 dated 4.4.2005 and the penalties were further reduced to 25%.

3. As per the learned Advocate appearing for the respondent, the said order of the Tribunal was challenged by the Revenue before the Hon'ble High Court and their appeal was rejected.

4. In as much as the penalty confirmed by the Commissioner (Appeals) stands further reduced to 25% by the Tribunal and the said order of the Tribunal stands confirmed by the Hon'ble High Court when the appeal filed by the Revenue for enhancement of the penalty was rejected. As such Revenue's prayer for enhancement of the same to the extent of 100% of the duty has almost become infructuous. The Revenue's appeal is rejected.

(Order dictated and pronounced in the open Court.)

(MATHEW JOHN)
Member (Technical)
MPS*

(ARCHANA WADHWA)
Member (Judicial)