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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

STAY Application No. : E/Stay/1981/2009
Appeal No. E/1926/2009-EX[DB]

Dated: **22/10/2012**

Assistant Registrar
C.E.S.T.A.T. New Delhi
To,
C.C.E. JAMMU
OB-32, RAIL Head Complex, Jammu - 180012.

C.C.E. JAMMU (Appellant)

VS

JAY AMBEY AROMATICS, (Respondent)

I am directed to transmit herewith a certified copy of Final Order No. **A/1240/2012-EX[DB]** , Stay Order No. **SO/1766/2012** and dated **21/09/2012** passed by the Tribunal under section **35-C(1) of the Central Excise and Salt Act, 1944.**

Assistant Registrar
EXCISE Appeal Branch

Copy To,
1. Respondent
JAY AMBEY AROMATICS,
SIDCO INDUSTRIAL COMPLEX,
BARI BRAHMANA, JAMMU, (J&K)

2. Advocate(s) / Consultant(s):

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. Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Ameer Pet, Hyderabad – 500038

13. Office Copy

14. Gaurd File

Assistant Registrar
EXCISE Appeal Branch

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

DATE OF HEARING/Decision: 21.09.2012

Stay

Excise Appeal No. E/1981 of 2009 of 2009 in
Excise Appeal No. E/1926 of 2009

[Arising out of the Order-in-Appeal No.269-274/CE/Appl/Jal (JK) 2009 dated 31.03.2009 passed by the Commissioner of Central Excise (Appeals), Jalandhar, Chandigarh)

CCE, Jammu **Appellants**

Vs.

M/s. Jay Ambey Aromatic **Respondent**

For approval and signature:

Hon'ble Smt.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) Rule, 1982?	:
2.	Whether it would be released under Rule 27 of the CESTAT (procedure) Rule, 1982 for publication in any authoritative report or not?	:
3.	Whether their Lordships wish to see the fair Copy of the order?	:
4.	Whether order is to be circulated to the Department Authorities?	:

CORAM: Hon'ble Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Rakesh Kumar, Member (Technical)

Per Rakesh Kumar STAY ORDER NO 1766/2012-Ex(BR)
FINAL ORDER NO A/1240/2012-Ex(BR)

This is an appeal filed by the Revenue against the order-in-

Section 93 of the Finance Act, 2004 and Secondary and Higher Education Cess leviabe under Section 136 read with Section 138 of the Finance Act, 2007.

2. None appeared for the Respondent.

3. Heard Sh. R.K.Verma, learned DR, stated that the issue involved in this stand that the issue involved in this appeal stands decided by the Tribunal against the respondent in the case of **CCE, Jammu Vs. Jindal Drugs** reported in 2011(267) ELT-653 and that the same view has been taken by Hon'ble Gauhati High Court in the case of **CCE, Shilong Vs. M/s. Dharmpal Satyapal** reported in **2012 (275) ELT 71 (Gauhati)** He, therefore, pleaded that the impugned order is not correct.

4. We have considered the submissions of the Learned DR and have perused the records. We find that the issue involved in this case stands decided against the respondent not only by the Tribunal's judgment in the case of **Jindal Drugs Ltd. (spura)** but also by the judgment of Guwahati High Court in the case of **Dharampal Satyapal (supra)** wherein it has been held that education cess and secondary and higher education cess is not covered for exemption under Notification No.56/2002. In view of this, the order of the commissioner (Appeals) is set aside and on this point, the order-in-original passed by the original adjudicating authority is restored. The appeal is allowed.

(Archana Wadhwa)
Member (Judicial)

(RAKESH KUMAR)
Member (Technical)