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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/34/2012-EX[DB], E/35/2012-EX[DB], E/36/2012-EX[DB], E/37-38/2012-EX[DB]
E/COD/04-08/2012 Dated: **22/05/12**

Assistant Registrar
C.E.S.T.A.T. New Delhi
To,
C.C.E. KANPUR
117/7, Sarvodaya Nagar, Kanpur 208005.

C.C.E. KANPUR (Appellant)
VS
M/S LAXMI OIL & VANASPATI PVT. LTD. (Respondent)

MISC ORDER 585-589/2012-EX (DB)

I am directed to transmit herewith a certified copy of **Final Order** NoA/608-612/2012 **EX|DB|** dated 14/5/2012 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
M/S LAXMI OIL & VANASPATI PVT. LTD.
97, KHANCHANDPUR, RANIA, KANPUR (DEHAT)

2. **Advocate(s) / Consultant(s): SH. A.K.DIXIT ADV. C/O APPELLANT**

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
~~12 Guard file~~
13 GAURD FILE

Assistant Registrar
EXCISE Appeal Branch

14. **SHRI SAURABH GUPTA, DIRECTOR OF**
M/S LAXMI OIL & VANASPATI PVT. LTD. 97, KHANCHANDPUR, RANIA, KANPUR (DEHAT)
15. **M/S GANPATI EDIBLES LTD.**
NEAR KHANNA MOTEL, VISAYAKPUR, RANIA, KANPUR (DEHAT)
16. **SHRI M.K. MALPANI DIRECTOR OF**
M/S GANPATI EDIBLES LTD., NEAR KHANNA MOTEL, VISAYAKPUR, RANIA, KANPUR (DEHAT)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

COURT-I

Date of hearing/decision: 14.5.2012

Hon'ble Mr. Justice Ajit Bharihoke, President
Hon'ble Mr. Rakesh Kumar, Technical Member

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 26 of the CESTAT (Procedure) Rules, 1982?	
2	Whether it should be released under Rule 26 of CESTAT (Procedure) Rules, 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 Departmental authorities?	

Condonation Application No. 4 to 8 of 2012 and Central Excise Appeal No.34 to 38 of 2012

Arising out of the order in appeal No.552-555/CE/APPL/KNP/2010 dated 28.10.2010 and No.200/CE/APPL/KNP/2010 dated 7.4.2010 passed by Commissioner (Appeals), Customs & Central Excise , Kanpur.

C.C.E., Kanpur ... Appellant

versus

1. Laxmi Oil & Vanaspati Pvt. Ltd.
2. Shri Saurabh Gupta
3. Ganpati Edibles Ltd.
4. Shri M.K. Malpani
5. Ganpati Edibles Ltd.

.. Respondents

Present Shri Bharat Bhushan, A.R. for the Appellant
Present Shri A.K. Dixit, Advocate for the appellant M/s Ganpati Edibles Pvt. Ltd. and none for others

MISC. Order No. 585-589/2012-EX(BR)
FINAL Order No. A/608-612/2012-EX(BR)

Per Mr. Rakesh Kumar:

These are applications for condonation of delay in filing of the appeals against the orders passed by Commissioner (Appeals) holding that soap stock/fatty acids, waxes and gums arising from refining are fully exempt from duty under Notification No. 89/95-CE.

2. The reason for delay as mentioned in the applications is that earlier, the order of the Commissioner (Appeals) had been accepted by the Committee of Commissioners on account of Tribunal's juddgment in the case of **C.C.E., Hyderabad vs. Priyanka Refineries Ltd.** , reported in 2010 (349) ELT 70, but subsequently, in view of the judgment of the Principal Bench of the Tribunal in the case of **C.C.E., Jalandhar vs. M/s A.G. Flats Ltd vide final order No.648-661/11-Ex., dated 28.7.2011**, the Committee of Commissioners decided to review its decision and for this reason there has been delay of 11 months in filing of the appeals.

3. Since in these cases, the Committee of Commissioners had once decided not to file appeal in terms of the Section 35B(2), in view of the order of the Tribunal in the case of Priyanka Refineries vs. C.C.E., Hyderabad (supra) the Committee of Commissioners cannot review its decision, subsequently on the basis of some subsequent decision. We are therefore unable to accept the applications for Condonation of delay. Accordingly, condonation applications as well as the appeals are dismissed.

(Justice Ajit Bharihoke)
President

(Rakesh Kumar)
Technical Member

scd/