

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/1037&10582012
Appeal No. : E/848 & 865/2012-EX[DB]

Dated: 14/09/2012

Assistant Registrar
C.E.S.T.A.T. New Delhi
To,
Nalwa Steel & Power Ltd
Ghargoda Road, Taraimal, Distt-
Raigarh,496001(cg)

Nalwa Steel & Power Ltd

(Appellant)

VS

(Respondent)

C.C.E. & S.T.-Raipur

I am directed to transmit herewith a certified copy of Final Order No. A/1154-1155/2012-EX[DB] , Stay Order No. SO/154-1562/2012 dated 07/09/2012 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

C.C.E. & S.T.-Raipur
CENTRAL EXCISE
BUILDING...DHAMTARI
ROAD...TIKRAPARA...RAIPUR,492001

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

MS. NEHA GULATI, ADV.,
R-163, IIND FLOOR,
G. K. PART-I, N. DELHI-110

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

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO. III

Excise Appeal No. 848 & 865 / 2012
E/STAY Application No. 1037 & 1058 / 2012

Date of Hearing : 07/09/2012

[Arising out of Order-in-Appeal No. 207 /RPR-I/2011 dated 14.12.2011 and 03 /RPR-I/2012 dated 16.1.2012 passed by the Commissioner of Customs & Central Excise (Appeals-I), Raipur]

For approval and signature:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)

1. Whether Press Reporters may be allowed to see : No
the Order for publication as per Rule 27 of the
CESTAT (Procedure) Rules, 1982?
 2. Whether it should be released under Rule 27 : No
of the CESTAT (Procedure) Rules, 1982 for
publication in any authoritative report or not?
 3. Whether Their Lordships wish to see the fair : Seen
copy of the Order?
 4. Whether Order is to be circulated to the : Yes
Departmental authorities?
-

Nalwa Steel & Power Ltd

Applicant

Vs

C.C.E. & S.T., Raipur

Respondent

Present for the Appellant : Ms. Neha Gulati, Advocate
Present for the Respondent : Shri A.K. Jain, Jt. CDR

CORAM:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Rakesh Kumar, Member (Technical)

STAY ORAL ORDER No. 1561-1562/2012-EX(BR)
FINAL **ORAL ORDER NO. A/1154-1155/2012-EX(BR)**

Per Archana Wadhwa (for the Bench):

After hearing both the sides, we dispense with the condition of pre-deposit of dues confirmed against the applicant-appellant and proceed to decide the appeal itself inasmuch as the Commissioner (Appeals) has rejected the appeals on the point of limitation. The delay in filing one appeal is of 26 days and the in the other appeal, it is 28 days delay. While dealing with the COD application, Commissioner (Appeals) has simply observed - 'grounds put forth by the appellant is totally baseless and seems to be an after-thought'. He has not advanced any reason as to why he considered the same to be baseless and not reasonable.

2. At this stage, I find that another appeal of the same appellant was also dismissed by Commissioner (Appeals) as barred by limitation. The appellant had filed a COD application in that case advancing the same very ground for the delay, which are available in the present two appeals. The Tribunal while disposing of the earlier appeals vide its final order No. 704-705/2012-SM(Br) & S/702-703/2012-SM(Br) dated 11.6.12 observed as under:

"2. Learned advocate appearing for the appellant submits that the delay occurred on account of concerned person having suffered from a Heart attack and subsequently hospitalised with two days rest advise. She submits that the said person himself appeared in person before the Commissioner (Appeals) in support of COD application and explained the facts. She further submits that after causing appearance before the Commissioner (Appeals) when the said person agreed to file investigation report and supporting documents, he expired and as such the supporting documents could not be placed before Commissioner (Appeals)."

3. Inasmuch the Commissioner (Appeals) has admittedly the powers to condone the delay upto 30 days, we deem it fit to direct him to condone the said delay and direct him to decide the appeal on merits. Both the matters are accordingly remanded.

4. Stay petitions as also appeals gets disposed of in the above manner.

(Pronounced in the open court)

(~~Archana~~ Wadhwa)
Member(Judicial)

(Rakesh Kumar)
Member(Technical)

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