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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066

CUSTOMS APPEAL BRANCH

Appeal No. ST/STAY/3036/2011 IN ST/1446/2011 - CU[DB] Date **16/03/2012**

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

To :
M/S YASH MOTORS
3 KM STONE, JODHRAS CHOURAHA,
AJMER ROAD, BHILWARA

M/S YASH MOTORS Appellant

Vs

C.C.E. JAIPUR I **STAY ORDER NO.ST/S/277/2012** Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/A/222/ 2012 CU[DB]** dated 28.02.2012 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
C.C.E. JAIPUR I
N.C.R.BUILDING, STATUE CIRCLE,
"C" SCHEME, JAIPUR 302005.

2. Adv. / Consult
MR.BIPIN GARG
B-1/1289,A-VASANT KUNJ,
NEW DELHI 110 070.

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
(Customs Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

Date of Hearing:28.02.2012
Date of decision:28.02.2012

For approval and signature:

Hon'ble Shri D.N. Panda, Judicial Member
Hon'bleShri Rakesh Kumar, Technical Member

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1. Whether Press Reporters may be allowed to see CESTAT (Procedure) Rules, 1982.

2. Whether it should be released under Rule 27 of the 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?

Service Tax Stay No.3036 of 2011 in
S.T. Appeal No.1446 of 2011

M/s. Yash Motors ...Appellant

Vs.

CCE, Jaipur -I ...Respondent

(Arising out of common Order-in-Appeal No.272(CB)/JPR-II/2011 dated 16.06.2011 passed by the Commissioner of Central Excise (Appeals), Jaipur)

Appearance: Rep. by Ms. Sukriti Das, Advocate for the appellant.
Rep. by Shri K.P. Singh, DR for the respondent.

CORAM: Hon'ble Shri D.N. Panda, Judicial Member
Hon'ble Shri Rakesh Kumar, Technical Member

Final Order No. ST/A/222/12-Cus /Dated:28.02.2012

Stay order No ST/S/277/12-Cus

Per. D.N. Panda:

Ld. Counsel says that order-in-appeal was received on 29.08.2010 and appeal was filed on 25.2.2011. The person, who was in charge of the matter was under treatment in M.G. Hospital, Bhilwara. A copy of the discharge certificate was filed before the Appellate Authority to consider grievance of the appellant since the appellant is a small tax payer, its grievance should have been considered. Looking to the discretionary power vested on the Ld. Commissioner (Appeals) in terms of proviso to Sub-section (3) of Section 85 of the Finance Act, 1994 and also considering that the appeal has been filed within six months, there should not be difficulty to consider the grievance of small tax payer. Merely because there is a delay, such tax payer should not be deprived from the process of justice. Accordingly, the delay is condonable and ld. Commissioner shall consider this aspect again to pass appropriate order and dispose the appeal on merit. In the result, pre-deposit is waived and stay application is disposed remanding the matter to the ld. Commissioner in the manner indicated above.

[order dictated & pronounced in open court]

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

Ckp.