

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
SINGLE MEMBER APPEAL BRANCH

Appeal No. ST/493 /2011 – SM [BR] &ST/STAY/ 940/2011-SM[BR]

Date 23/03/2012

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

To :
M/S HOLLYWOOD INDIA TRAVELS,
MAYFAIR BUILDING, 29, HAZRATGANJ, LUCKNOW (U.P.)

M/S HOLLYWOOD INDIA TRAVELS,

Appellant

C.C.E. LUCKNOW

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 224/2012-SM[BR]&S/232/2012 dated 21.3.2012
passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

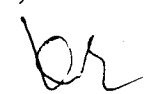

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
C.C.E. LUCKNOW
7-A, ASHOK MARG, LUCKNOW.

2. Adv. / Consult
MR. NAVEEN MULLIK ADV.
M/S 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
13. Guard file


Assistant Registrar
(SM Appeal Branch)

**CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM,
NEW DELHI-110066**

COURT NO. IV

**ST/Stay/940/2011 in &
Service Tax appeal No. 493/2011-SM**

(Arising out of Order-in-Appeal No. 380/ST/Lko/2010 dated 15.11.2010 passed by the Commissioner of Customs & Central Excise (Appeals), Lucknow)

Date of Hearing/decision: 21st March, 2012

For approval and signature:

Hon'ble Shri D.N. Panda, Judicial Member

1	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the 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?	

M/s. Hollywood India Travels

Appellant

Vs.

CCE, Lucknow

Respondent

Present for the Appellant : Shri Naveen Mullick, Advocate

Present for the Respondent : Shri K.K. Jaiswal, DR

Coram: Hon'ble Shri D.N. Panda, Judicial Member

FINAL ORDER NO. 224 / 2012 SM (Br) &

Per D.N. Panda:

S-232 / 2012 SM (Br)

Perusal of first appellate order indicates that when the order-in-original was sent on 15.12.2009 as recorded therein and that the same was deemed to have been served on

22.12.2009, filing of the first appeal on 16.6.2010 was time barred. Without passing an order on time bar aspect, learned Commissioner (Appeals) proceeded on merit. If the appeal is not maintainable being barred by limitation there is no question of consideration of merits of the appeal. Therefore, the matter is returned back to the learned Commissioner (Appeals) to ascertain whether first appeal before him was time barred. If so, appropriate order be passed. The appellant shall also explain to the appellate authority on his defence, if any, on the point of limitation. If the appellant succeeds on limitation, appeal shall receive consideration on merit. In view of the aforesaid, stay application is disposed and appeal is remanded to the first appellate authority.

(Pronounced in the open Court)

(D.N.PANDA)
JUDICIAL MEMBER

RK