

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

Appeal No. ST/1406/2011 - CU[DB]
ST/S/2934/11, ST/M/976/11

Date 23/03/2012

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

To :
M/S LAXMI TRADING COMPANY,
NEAR RAILWAY STATION, LAKHIMPUR. (U.P.)
M/S LAXMI TRADING COMPANY,

Appellant
Vs
Respondent

C.C.E. LUCKNOW

I am directed to transmit herewith a certified copy of **Final order No.ST/A/251/ 2012 CU[DB]** dated 29.02.12
passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Alongwith Stay Order No ST/S/305/12 & Misc Order No ST/M/72/12


Assistant Registrar
(Customs Appeal Branch)

Copy to :

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

2. Adv. / Consult
MR.VINEET KUMAR SINGH,A.C.A
5 NARAIN NAGAR, SECTOR 11,INDIRA NAGAR, LUCKNOW.

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
(Customs Appeal Branch)

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

COURT NO. II

**ST/Misc./976/2011 & ST/Stay/2934 in and
Service Tax appeal No. 1406 of 2011**

[Arising out of Order-in-Appeal No. 177-ST/LKO/2011 dated 4.8.2011 passed by the Commissioner of Customs, Central Excise & Service Tax (Appeals), Lucknow].

Date of Hearing/decision: 29th February, 2012

For approval and signature:

Hon'ble Shri D.N. Panda, Judicial Member
Hon'ble Shri Rakesh Kumar, Technical 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. Laxmi Trading Company

Appellants

Versus

CCE & ST, Lucknow

Respondent

Present for the Appellant : Shri Vineet Kumar Singh, Adv.
Present for the respondents : Shri K.P. Singh, D.R.

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

Misc order No. ST/M/72/12-Cus.

FINAL ORDER NO. ST/A/251/12-Cus.

Stay order No. ST/S/305/12-Cus.

Per D.N. Panda:

Learned Counsel refers to the impugned order and submits that only for 7 days delay in filing the appeal first

appellate authority has thrown its appeal from process of justice. Therefore, the matter may be sent back to the first appellate authority before whom the appellant shall file necessary application for condonation of delay for his consideration.

2. Learned representative for Revenue says that had there been any application before the first appellate authority, that Authority could have considered the matter.

3. Since we find that the appeal of the appellant had been thrown at the threshold that shall cause prejudice to the appellant. Unless appellant is given opportunity to explain reasons for the delay ~~which~~ following the ratio of the judgment in the case of N. Balakrishnan vs. M. Krishnamurthy, reported in 2008 (228) ELT 162), *the appellant may be prejudiced.*

4. Stay application is disposed waiving the requirement of pre-deposit and appeal is remanded to the first appellate authority.

4. Since result of appeal has reached as above, Misc. application for early hearing is dismissed.

(Pronounced in the open Court)

(D.N.PANDA)
JUDICIAL MEMBER

(RAKESH KUMAR)
TECHNICAL MEMBER

RK