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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

STAY Application No. : ST/Stay/2876/2012
Appeal No. : ST/2209/2012-CU[DB]

Dated: **16/08/2012**

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

Ramesh Sharma & Brothers
Murdhawa, Renukoot, Sonebhadra-
231217 (u.p.)

Ramesh Sharma & Brothers (Appellant)

VS

C.C. & C.E. & S.T.-Allahabad (Respondent)

I am directed to transmit herewith a certified copy of Final Order No. **ST/A/544/2012-CU|DB|**, Stay/MISC Order No. **ST/SO/849/2012** and dated **13/08/2012** passed by the Tribunal under section 91(5) **of the Finance Act, 1994 relating to Service Tax Act, 1994.**

Assistant Registrar
CUSTOMS Appeal Branch

Copy To,
1. **Respondent**
C.C. & C.E. & S.T.-Allahabad
38...M G MARG...CIVIL LINES,
ALLAHABAD,211001

2. **Advocate(s) / Consultant(s):**
V. Laxmikumaran
5,Jangpura Extension,Link Road,New
Delhi-110014

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. Gaurd File

Assistant Registrar
CUSTOMS Appeal Branch

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No. 2, R.K. Puram,
NEW DELHI

COURT NO. II

ST/Stay/2876/12 in &
Appeal No. ST/2209/2012

Date of hearing/decision: 13th August, 2012

M/s. Ramesh Sharma & Bros. Appellant
Reptd. By Shri B.L. Narasimhan, Advocate

Versus

CCE, Allahabad Allahabad
Respondent

Reptd. By Shri N. Pathak, D.R.

Coram: Hon'ble Shri D.N. Panda, Judicial Member;
Hon'ble Shri Mathew John, Technical Member

STAY ORDER NO. ST/S/849/12-Cu DATED
Final order Nos ST/A/544/12-Cu
Per D.N. Panda:

Both sides agree that the appeal was although filed beyond the statutory period of 90 days there is still judicial discretion available to condone the delay of 3 days beyond that period. Shri Narasimhan, says that the assessee being small tax payer shall suffer if no opportunity is granted to file an application before learned Commissioner (Appeals) for condonation of delay. Revenue agrees to the proposition.

2. Accordingly, the appellant is directed to file an application for condonation of delay within one month of receipt of this order and pray to the learned adjudicating authority to fix date of hearing. Upon hearing, the authority

shall pass appropriate order and if delay is condoned at his level, appeal shall merit consideration.

3. In view of the above observation, both stay application as well as appeal are disposed.

(Dictated & pronounced in the Open Court.)

(D.N. PANDA)
JUDICIAL MEMBER

(MATHEW JOHN)
TECHNICAL MEMBER

RK