

**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**

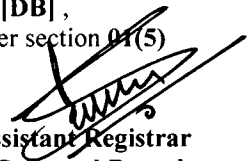
(Appellant)

**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: 13<sup>th</sup> August, 2012

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

Versus

CCE, Allahabad<sup>1</sup> 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/15/849/12-Cur DATED**

**Per D.N. Panda:** Final order No. ST/A/544/12-Cur

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