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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/924/2012
Appeal No. : ST/414/2012-CU[DB]

Dated: **07/09/2012**

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

NAGAR PALIKA PARISHAD
Tikamgarh(MP)

NAGAR PALIKA PARISHAD (Appellant)

VS

C.C.E Bhopal (Respondent)

I am directed to transmit herewith a certified copy of Final Order No. **ST/A/566/2012-CU[DB]**, Stay/MISC Order No. **ST/SO/917/2012** and dated **29/08/2012** passed by the Tribunal under section 86(5) **of the Finance Act, 1994 relating to Service Tax Act, 1994.**

Assistant Registrar
CUSTOMS Appeal Branch

Copy To,
1. Respondent
C.C.E Bhopal
Hoshangabad Road, 48, Administrative
Area, Area Hills, Bhopal (M.P.) 462011

2. Advocate(s) / Consultant(s):
M.K.SHARMA, CHARTERED
ACCOUNTANT
30, ZONE-1, MAHARANA PRATAP
NAGAR, BHOPAL-462011.

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. Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Ameer Pet, Hyderabad – 500038

13. Office Copy

14. Gaurd File

Assistant Registrar
CUSTOMS Appeal Branch

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.**

Date of Hearing : 29.8.2012

Service Tax Stay No. 924 of 2012 and Service Tax Appeal No. 414 of 2012

[Arising out of the Order-in-Appeal No. 193/BPL/201 dated 19.10.2011 passed by the Commissioner (Appeals), Customs, Central Excise & Service Tax, Bhopal]

For Approval & signature :

**Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Mathew John, Member (Technical)**

1.	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
3.	Whether their Whether their Lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	Yes

Nagar Palika Parishad Appellant

Vs.

CCE, Bhopal Respondent

Appearance:

Appeared for Appellant : Shri M.K. Sharma, C.A.
Appeared for Respondent : Shri N. Pathak, A.R.

CORAM: Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Mathew John, Member (Technical)

Stay order No. ST/S/ 917/12-Cus'
Final Order No. ST/A/566/12-Cus...dated............

Per Archana Wadhwa

As the appellants have deposited the entire amount of service tax, we dispense with the condition of pre-deposit of penalty and proceed to decide the appeal itself inasmuch the issue stands decided.

2. After hearing both the sides, we find that the Commissioner (Appeals) has dismissed the appeal on the point of limitation by observing that there is a delay of one year in filing the appeal and he has no powers to condone such a huge delay. Ld. Advocate appearing for the appellant fairly agrees that the appeal before the Commissioner (Appeals) was filed with a delay of one year. We note that the law stands finalized by Supreme Court's decision in the case of **Singh Enterprises Vs. CCE** – 2008 (223) ELT 163 (SC) and latest decision of Supreme Court in the case of **Raja Mechanical Company Pvt. Ltd.** – 2004 (163) ELT A159 (SC). It stands laid down by the Hon'ble Supreme Court that Commissioner (Appeals) has no powers to condone the delay beyond the period prescribed in Section 85 of Finance Act, 1994. Inasmuch as the delay is beyond the condonable period, we find no reasons to keep the appeal on records. In view of the above, we uphold the impugned order and reject the appeal. Stay petition as also appeal gets disposed of in the above manner.

(Dictated & pronounced in open Court)

(Archana Wadhwa)
Member (Judicial)

(Mathew John)
Member (Technical)

RM