TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Mail : cestat08@gmail.com

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

Appeal No. : E/351/2005-EX[DB], E/352/2005-EX[DB], E/353/2005-EX[DB], E/355/2005-EX[DB], E/350/2005-EX[DB], E/354/2005-EX[DB]

Dated: **17/07/2012**

Assistant Registrar
C.E.S.T.A.T. New Delhi
To,
PANCHMUKHI ENGINEERING WORKS
DHEOPUR, VARANASI

PANCHMUKHI ENGINEERING WORKS (Appellant)

VS

C.C.E Allahabad (Respondent)

I am directed to transmit herewith a certified copy of Final Order No. **A/817-822/2012-EX[DB]** dated **13/07/2012** passed by the Tribunal under section **35-C(1) of the Central Excise and Salt Act, 1944.**

Assistant Registrar
EXCISE Appeal Branch

Copy To,
1. Respondent
C.C.E Allahabad
38,M.G.Marg, civil Lines, Allahabad

2. Advocate(s) / Consultant(s):
Rajesh Chhibber
FA/9, New Kavi Nagar, Ghaziabad

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
EXCISE Appeal Branch

P.T.O.-2

14. **PAWAN ELECTRICALS IND.**
KHAJURI PANDEYPUR, VARANASI

15. **ARKAY ENGINEERING WORKS**
KESHARIPUR (AMMATALI)
BHULLANPUR(PAC), VARANASI.

16. **CINNI ENGINEERING WORKS**
KESHARIPUR (AMMA TALI)
BHULLANPUR(PAC)

17. **LAHARTARA ENGINEER WORKS**
83-84 shieodas pur,varanasi.

18. **NATIONAL WINDER, PISHACH MOCHAN,**
VARANASI -221010

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi.
Court No. 1

Date of hearing/decision: 13.07.2012

Hon'ble Sh. Justice Ajit Bharihoke, President
Hon'ble Sh. Rakesh Kumar, Member (Technical)

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?	

Excise Appeal No. 350 to 355 of 2005

M/s Lahartara Engineering Works — Appellants
M/s Pawan Electricals Industries
M/s Arkay Engineering Works
M/s Cinni Engineering Works
M/s Panchmukhi Engineering Works
M/s National Winder
(Arising out of order-in-appeal Nos. 646, 647, 648, 649, 650 & 651-CE/APPL/ALLD/2004 dated 28.10.2004 passed by the Commissioner (Appeals) Central Excise, Allahabad).

Vs.

CCE, Allahabad — Respondent

Present Sh. Rajesh Chhibber, Advocate for the appellants.
Present Sh. R. K. Verma, AR for the respondent.

Coram: **Hon'ble Mr. Justice Ajit Bharihoke, President**
Hon'ble Sh. Rakesh Kumar, Member (Technical)

FINAL ORDER NO. A/817-822/2012-Ex(BR)

Per: Justice Ajit Bharihoke (Oral):

These appeals are directed against the common order in appeal No. 646-651-CE/ALLD/2004 dated 28.10.2004 whereby the Commissioner (Appeals) allowed appeals of the Revenue and set aside the following orders-in-original passed by the Joint Commissioner, Central Excise, Allahabad.

1. MP(Dem-70/2003)40 of 2003 dated 27.05.2003
2. MP(Dem-43/2002)45 of 2003 dated 04.06.2003
3. MP(Dem-101/2003)49 of 2003 dated 30.06.2003
4. MP(Dem-63/2003)40 of 2003 dated 27.05.2003
5. MP(Dem-69/2003)41 of 2003 dated 27.05.2003
6. MP(Dem-71/2003)43 of 2003 dated 27.05.2003

2. Shri Rajesh Chhibber, ld. Advocate for the appellant at the outset has pressed for remand of the matter to the appellate authority for fresh adjudication. Ld. Counsel for the appellant has taken us through the operative portion of the impugned order and submitted that the Commissioner (Appeals) while accepting the appeals filed by the department has not care to give any finding on the plea of the appellant that show cause notices raising demand were barred by limitation. Ld. Counsel further submitted that the impugned order is incomplete, non-executable order because it does not spell out the amount of the duty demand confirmed against the appellant or the penalty imposed. Ld. Counsel has thus strongly urged for setting aside of the order-in-original.

3. Shri R.K. Verma, ld. AR for the department has fairly conceded that impugned order of Commissioner (Appeals) is totally silent about the plea of the appellant regarding limitation and it is incomplete inasmuch as it does not specify the actual demand confirmed, interest thereon or the penalty imposed. He, thus submitted that in view of the aforesaid infirmity in the impugned order department has no objection if the appeals are remanded back to the Commissioner (Appeals) to decide the matter afresh by addressing the plea of limitation and also clarifying as to what amount of excise duty is confirmed against the appellant and also to specify the penalty imposed.

4. On going through the impugned order, we find merit in the contention of the ld. Counsel for the appellant otherwise also the AR also conceded that this is a fit case for remand. Accordingly, we set aside the impugned order and remand the matters back to the Commissioner (Appeals) for deciding the matters afresh in terms of aforesaid observation after giving an opportunity of being heard to the appellant.

(Justice Ajit Bharihoke)
President

(Rakesh Kumar)
Member (Technical)

Pant