FAX : 011-26108426

REGISTERED / AD

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

Dated: **02/02/2015**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **ST/A/50212/2015-CU[DB]** dated **22/01/2015**

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section **01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.**

Asstt. Registrar(CUSTOMS Appeal Branch)

	Application	Appeal	Name and Address of Appellant
1	ST/MISC/50052/2015	ST/60083/2013	Padmawati Communication Near Sainik Vishram Grah,college Road Circle,, PALI ,RAJASTHAN
			Name and Address of Respondent
2			C.C.E. & S.T.-Jaipur-ii N C R BUILDING,STATUE CIRCLE...C-SCHEME, JAIPUR, RAJASTHAN-302005

Copy To

3Advocate(s) / Consultant(s):

PDS LEGAL-ADVOCATES &SLICITORS
5TH FLOOR, PLOT NO.2B, TOWER2,
SECTOR-126,
GAUTAM BUDH NAGAR,
NOIDA,
UTTAR PRADESH

--

4 Additional Party's Name & Address :
5 Bar Association, CESTAT, Delhi
6 Director Publications, Customs, Excise. I.P. Estate, Delhi
7 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3
8 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17
9 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005
10 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15
11 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
12 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070
13 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

14 C.D.R. **15** Office Copy **16** Guard File

Asstt. 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/Order : 22.1.2015

No. ST/Misc./50052/2015 & ST/60083/2013-CU(DB)

[Arising out of Order-in-Appeal No. 187(VC)ST/JPR-II/2013 dated 7.6.2013 passed by the Commissioner (Appeals), Customs & Central Excise, Jaipur-I]

For Approval & Signature :

Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. R.K. Singh, 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?	
2.	Whether it would 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 Department Authorities?	

Padmawati Communication — Appellant

Vs.

CCE, Jaipur — Respondent

Appearance:

Shri Shashi Mathew, Advocate - for the Appellant

Ms. Suchitra Sharma, AR - for the Respondent

Coram : Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. R.K. Singh, Member (Technical)

F. Order No. 50212/2015

Per **Justice G. Raghuram :**

The Additional Commissioner, Central Excise, Jaipur-II by the order dated 24.2.2012 confirmed service tax demand of Rs.41,64,840/- besides interest and penalties as specified therein against the appellant. Aggrieved thereby, an appeal was preferred by appellant before the Commissioner (Appeals) which was rejected vide the impugned order dated 7.6.2013. The stay application was disposed on 27.11.2014, ex-parte.

2. Since notice of hearing of the stay application dispatched to the appellant was returned with a postal endorsement "unclaimed", by the order dated 27.11.2014 and for reasons recorded therein we dismissed the stay application for default and directed the appellant to pre-deposit the assessed liability to tax, interest and penalty within four weeks and report compliance by 22.1.2015. The order also endorsed a default clause stipulating that appeal would stand dismissed for failure of pre-deposit.

3. Against a pre-deposit order dated 11.2.2013 passed by the Commissioner (Appeals) (in the appeal preferred by the appellant herein) directing pre-deposit of Rs.25 lakhs, the appellant filed a writ petition before High Court of Rajasthan. During pendency of the writ petition, appellant received a notice for personal hearing from the office of the Commissioner (Appeals), scheduled on 29.5.2013. On 22.7.2013, the writ petition was dismissed by the Rajasthan High Court and the appellant was directed to comply with the order of the Appellate Commissioner, dated 11.2.2013.

4. Against the (impugned) order dated 7.6.2013 passed by the Commissioner (Appeals) the appellant not only preferred this appeal but also filed a Misc. application before the High Court of Rajasthan seeking inter alia, re-call or modification of the High Court's order dated 22.7.2013 as well as interdiction of the impugned order of the ld. Commissioner (Appeals).

5. On 4.12.2013, the Rajasthan High Court disposed of the Misc. application preferred by the appellant and directed a further deposit of Rs.16,64,840/- (after noticing that Rs. 25 lakhs as per the interim direction of the ld. Commissioner was already remitted). The High Court directed that upon the further deposit of Rs.16,64,840/-, the impugned appellate order dated 7.6.2013 stands annulled and the appeal preferred by the appellant against the primary adjudication order dated 24.2.2012, shall stand revived.

6. The present application is filed seeking re-call of the order dated 27.11.2014 which endorsed a default clause stipulating dismissal of the appeal on non-compliance with the pre-deposit order. Ld. Counsel also states that in the light of the Final Order of the Rajasthan High Court dated 4.12.2013 the appeal itself has become infructuous since the appellant has deposited the amount of Rs.16,64,840/-, in terms of the High Court's order.

7. In the facts and circumstances of this case, while recording our disapproval of the conduct of the appellant in pursuing parallel remedies against the order dated 7.6.2013 passed by the Commissioner (Appeals), Central Excise, Jaipur, in view of the final order of the High Court of Rajasthan dated 4.12.2013, we recall the order dated 27.11.2014 and dismiss the appeal as infructuous. The Misc. application is also disposed of.

(Justice G. Raghuram)
President

(R.K. Singh)
Member (Technical)

RM