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

To

Dated: **05/10/2015**

Appellant as per address in table below
Respondent as per address in table below

Final Order No. **ST/A/52964/2015-CU[DB]** dated **13/08/2015**

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	
1	ST/297/2012	Name and Address of Appellant **PHD CHAMBER OF COMMERCE & INDUSTRY,** PHD HOUSE, 4/2, AUGUST KRANTI MARG, SIRI FORT INSTITUTIONAL AREA, HAUZ KHAS, NEW DELHI.
2		Name and Address of Respondent -C.S.T. DELHI 17-B, I.P. Estate, IAEA House, New Delhi.

Copy To

3Advocate(s) / Consultant(s):

J. K. Mittal & Co,Adv
A-15, THIRD FLOOR,
PRIYADARSHINI VIHAR,
DELHI-110092

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 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082
15 C.D.R. **16** Office Copy **17** 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 13.08.2015

For Approval &Signature :

Hon'ble Hon'ble 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?	No
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
3.	Whether Lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	Yes

Appeal No.ST/297/2012-CU[DB]
[Arising out of Order-in-Original 45-47/GB/2011, dated 30.11.2011 passed by the C.S.T., Delhi]

M/s. PHD Chamber of Commerce & Industry — Appellant

Vs.

C.S.T., Delhi — Respondent

Appearance
Mr. J.K. Mittal, Advocate - for the appellant
Mr. Govind Dixit, DR - for the respondent

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

Final Order No. 52964/2015, dated 13.08.2015

Per Mr. R.K. Singh :

Appeal has been filed against Order-in-Original dated 30.11.2013 in terms of which service tax demand along with interest and penalties was confirmed under "Club or Association Service" [Section 65 (25a) (25aa) / 65 (105) (zzze) of the Finance Act, 1994] for the period 16.06.2005 to 31.03.2011.

2. Ld. advocate for the appellant during the hearing pleaded that the services were rendered to the members of the appellant and therefore its case is covered by the judgement of CESTAT in the case of **Federation of Indian Chambers of Commerce and Industry Vs. CST, Delhi [2014-TIOL-701-CESTAT-DELHI]**, the judgements of Ranchi High Court in the case of ***Ranchi Club Ltd. Vs. Chief Commissioner [2012 (26) STR 401 (Jhar.)]*** and Gujarat High Court in the case of ***Sports Club of Gujarat Ltd. Vs. Union of India [2013 (31) STR 645 (Guj.)]***.

3. We have considered the contentions of the appellant. In respect of the services provided by the appellant to its

members the issue is indeed fully covered in favour of the appellant by CESTAT judgement in the case of ***FCCI Vs. CST, Delhi*** (supra). Further, it is seen that Gujarat High Court in the case of ***Sports Club of Gujarat Ltd. Vs. Union of India*** (supra) ~~of~~ has declared that "*Section 65 (25a), 65 (105) (zzze) and 66 ibid incorporated/amended by the Finance Act, 2005 to the extent that the said provisions purport to levy service tax in respect of services purportedly provided by the petitioner club to its members, to be ultra vires. Rule is made absolute with no order as to costs*". As the taxing provision itself is held to be *ultra vires*, the impugned demand perishes.

4. For the aforesaid reasons, the impugned demand is not sustainable. The appeal is allowed.

(Justice G. Raghuram)
President

(R.K. Singh)
Member (Technical)

SSK