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: **17/09/2015**

To

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

Final Order No. **ST/A/52858/2015-CU[DB]** dated **10/09/2015**

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/287/2009	**TOPS DETECTIVE & SECURITY SERVICES LTD.** F-26.MIG COLONY,INDORE
			Name and Address of Respondent
2			-C.C.E. INDORE Manik Bagh Palace, Post Box No. 10, Indore 452001 (M.P.)

Copy To
3 Advocate(s) / Consultant(s):

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)

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

Date of hearing / decision : 10.09.2015

For Approval and 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 26 of the CESTAT (Procedure) Rules, 1982?	
2	Whether it should be released under Rule 26 of 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?	

Service Tax Appeal No. 287 of 2009

(Arising out of order-in-appeal No. IND-I/09/2009 dated 15/21.01.2009 passed by the Commissioner (Appeals-I) Customs, Central Excise & Service Tax, Indore).

M/s Tops Detective and Security Services Ltd. Appellant

Vs.

CCE, Indore Respondent

Appearance:

None for the appellant-assessee
Sh. Ranjan Khanna, DR for the Revenue

Coram:

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

Final Order No. 52858/2015

Per: R. K. Singh:

Appeal has been filed against order-in-appeal No. IND-I/09/2009 dated 15/21.01.2009 which upheld the service tax demand of Rs.15,89,035/- alongwith interest and penalties on the ground that the appellant had not discharged the service tax liability on the entire receipts under security service. When the case was called for hearing today there was no representation on behalf of the appellant. It is seen that the notice of hearing was duly sent to the address recorded in the appeal under registered A.D. and has been received back with the postal remark "for redirection addressee moved". In these circumstances, we proceed to decide the appeal on merit.

2. The appellant has essentially contended that:

(i) It has paid the service tax on the actual receipt while the figures in the balance sheets were on accrual basis.

(ii) It submitted reconciliation statement and only minor variations could not be reconciled.

(iii) For the payment of interest and education cess under wrong accounting head was mentioned by mistake but the payment itself was not in dispute.

(iv) There was no suppression of facts or wilful mis-statement.

3. Ld. DR on the other hand stated that the impugned order clearly brings out the liability to the appellant as well as the suppression on the

part of the appellant and the reconciliation statement was not based on supporting evidence.

4. We have considered the facts on record. As is clearly recorded by the Commissioner (Appeals) the appellant did not submit any evidence to show that it had actually paid service tax on the proceeds actually received by them and that the receipt shown in the balance sheet did not represent the actual realisation. He has also recorded that for reconciling the figures, the appellant did not extend any cooperation, adding that the onus for such reconciliation clearly rested with the appellant. The act of non furnishing of information by the appellant amounts to suppression of facts as has been held by the Uttarakhand High Court in the case of ***CCE, Meerut vs. Khushal Fertilisers Pvt. Ltd. – 2008 (229) ELT 652***. It may also be pertinent to mention here that the Commissioner (Appeals) also passed the impugned order on the basis of the facts available on record as no one appeared for personal hearing on behalf of the appellant before him.

5. In the light of the foregoing, we do not find any such infirmity in the impugned order as to warrant appellate intervention. Appeal is dismissed.

(Justice G. Raghuram)
President

(R. K. Singh)
Member (Technical)

Pant