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: **23/01/2015**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **ST/A/50141/2015-CU[DB]** dated **08/01/2015**

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/831/2008	PODDAR ALLOYS PVT. LTD. JASODHARPUR INDL. AREA, KOTDWAR (UTTRANCHAL),,
		Name and Address of Respondent
2		C.C.E. MEERUT I Excise Chowk, University Road, Mangal Pandey Nagar, Meerut - 250005.,

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

Kamaljeet Singh
J-144, PATEL NAGAR -I,
GHAZIABAD,
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 AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI PRINCIPAL BENCH, COURT NO. II

Appeal No. ST/831/2008-CU (DB)

[Arising out of Order-in-Appeal No. 183-CE/MRT-I/2008 dated 15.10.2008 by the Commissioner of Central Excise (Appeals), Meerut-I].

For approval and signature:
Hon'ble Mr Ashok Jindal, Member (Judicial)

Ashok Jindal

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?	

M/s. Poddar Alloys Pvt. Ltd. **....Appellants**

Vs.

C.C.E. Meerut-I **....Respondent**

Appearance:

Shri Kamaljit Singh, Advocate for the Appellants
Shri Govind Dixit, DR for the Respondent

CORAM:
Hon'ble Shri Ashok Jindal, Member (Judicial)
Hon'ble Shri R.K. Singh, Member (Technical)

Date of Hearing: 08.01.2015

FINAL ORDER NO. 50141/2015 -CU (DB)

Per Ashok Jindal:

The appellant is in appeal against the impugned order wherein service tax demand along with interest has been confirmed against the appellant and penalty under various provisions of Finance Act, 1994 was also imposed.

Ashok Jindal

2. The facts of the case are that during the course of audit of the balance sheets of M/s. Poddar Alloys Pvt. Ltd., it revealed that during the period 1999-2000 a sum of Rs.72,12,008/- were received by them as the commission on the ground of supervision of fabrication and erection of supporting structures and equipment from the client namely M/s. Malvika Steels Ltd. and M/s. Usha Ispat Ltd. The revenue is of the view that as the appellant has received a commission on account of supervision of fabrication and erection of supporting structure and equipments the same is covered under the category of Management Consultancy Services as appellant is providing technical assistance to their clients. Therefore, a show cause notice dated 22.04.2005 was issued by invoking extended period of limitation. Matter was adjudicated. Demands proposed in the show cause notice were confirmed and penalties were also imposed. On appeal before the Ld. Commssioner (A), the adjudication order was affirmed. Aggrieved from the said order, the appellant is before us.

3. Shri Kamaljeet Singh Ld. Counsel for the appellant submits that the appellant is having a good case on limitation as show cause notice has been issued by invoking extended period of limitation whereas in the show cause notice no allegation of suppression, fraud, collusion, willful misstatement and suppression of fact has been alleged against the appellant.

4. On merits he submits that the appellant was assigned only on work of supervision and appellant was not providing any given kind of assistant or advice to their client. Therefore, activity of

supervision does not fall under the category of management consultancy services. Therefore, the impugned order is required to be set aside.

5. On the other hand Shri Govind Dixit, Ld. AR appeared on behalf of the Revenue and submits that as the appellant is required to get itself registered with the service tax department and they failed to do so. Therefore, the extended period of limitation has been rightly invoked in this matter. On merits, he submits that the activity of supervision of supporting structure and equipments is a specialized supervision. Therefore, the same amounts to technical assistance provided by the appellant. Therefore, it is covered under Management Consultancy Services. In these circumstances, the impugned order is required to be affirmed and appeal be dismissed. He further submits that the department came to know of the commission received by the appellant only through the Balance Sheet for the year 1999-2000 and appellant has not obtained registration, therefore, extended period of limitation has been rightly invoked.

6. Heard the parties. Considered the submissions.

7. In this case the activity undertaken by the appellant is only supervision of fabrication and erection of supporting structures and equipments. From the records it does not reveal that appellant is providing any other assistance to their clients or appellant is providing any kind of advice to their clients. In the factual matrix, it cannot be termed that appellant is providing technical assistance to their clients. Consequently, the activity of the appellant does not

fall under the category of Management Consultancy Services. Further, we find that in the show cause notice there is no allegation of fraud, collusion, suppression, willful misstatement and suppression of fact by the appellant and it has not been alleged that appellant was having any malafide intentions not to pay any service tax. In these circumstances, extended period of limitation was also not invokable.

8. Consequently, the appellant succeeds on merits as well as limitation.

9. In these terms, we set aside the impugned order and allow the appeal with consequential relief if any.

(Dictated and pronounced in the open court)

16.01.15

(R.K.Singh)
Member (Technical)

(Ashok Jindal)
Member (Judicial)

Bhanu