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: **20/08/2015**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **ST/A/52544/2015-CU[DB]** dated **30/07/2015**

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/Stay/599/2009,	ST/184/2009	**LAXMI ELECTRICALS & DECORATORS,** BHAGSINGH KA BHAURAHA, ADARSH NAGAR, JAIPUR.
			Name and Address of Respondent
2			-C.C.E. JAIPUR I N.C.R.Building, Statue Circle, "C" Scheme, jaipur 302005.

Copy To

3 Advocate(s) / Consultant(s):

Pankaj Malik
Chartered Accountants 207-208, Shree Gopal Tower, Krishna Marg, C-Scheme, Jaipur,Rajasthan 302001

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: 30.07.2015

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/184/2009-CU[DB]

[Arising out of Order-in-Original No.36/2008 (ST), dated 17.12.2008 passed by the C.C.E., Jaipur-I]

M/s. Laxmi Electricals & Decorators — Appellant

Vs.

C.C.E., Jaipur-I — Respondent

<u>Appearance</u>

Shri Bipin Garg, Advocate - for the appellant

Shri BB Sharma, DR - for the respondent

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

Final Order No. 52544/2015, dated 30.07.2015

Per Mr. R.K. Singh :

Appeal has been filed against Order-in-Original(Review) dated 17.12.2008 passed by Commissioner in terms of which service tax demand of Rs.13,92,115/- was confirmed along with interest and penalties. The impugned demand was confirmed on the ground that the appellant had provided "Pandal and Shamiana Contract Service" under Section 65 (105) (zzw) of the Finance Act, 1994.

2. The appellant has contended that it only supplied furniture, fixtures, light, light fittings, floor covering and other articles for decoration and were not covered under the scope of Section 65 (105) (zzw) *ibid*. It quoted the judgement of Authority for Advance Rulings in the case of ***Kartar Singh Kochar [2005 (187) ELT 304 (AAR)]***. It also stated that there was no wilful mis-statement or suppression of facts on their part and therefore, the extended period was not invokable. During the hearing, the appellant did not press the point regardingvaluation.

3. We have considered the facts of the case. During the relevant time, as per Section 65 (77b) *ibid*, "Pandal & Shamiana Contractor Service" defines that "*Pandal & Shamiana Contractor means a person engaged in providing any service, either directly or indirectly, in connection with the preparation, arrangement, erection or decoration of pandal or shamiana and includes the supply of furniture, fixtures, lights and lighting fittings, floor coverings and other articles for used therein.*" Under Section 65 (77a) *ibid*, "*pandal or shamiana means that a place specially prepared or arranged for organizing an official or business*"

function." Section 65 (105) (zzw) *ibid* defined that "*the taxable service is any service provided to a client, by a pandal or shamiana contractor in relation to a pandal or shamiana in any manner and also includes the services, if any, rendered as a caterer.*" The appellant has admitted that it was providing electrical lighting and decoration, etc. and therefore it is clearly covered within the scope of Section 77(b) *ibid* as "Pandal and Shamiana Contractor". The said fittings and decoration were provided to prepare a place for social/official functions organised by Tourism Department of Government of Rajasthan as mentioned in the impugned order and therefore the service rendered by the appellant clearly fell within the definition under Section 65 (105) (zzw) *ibid.* Indeed the relevant statutory provisions were so unambiguous that there was no scope for any confusion. We also notice that in para 16 of the impugned Order-in-Original it is mentioned that the appellant actually charged service tax amounting to Rs.9,62,787/- and thus its claim that it had a *bona fide* belief regarding non-taxability of service and there was no suppression of facts on its part, is totally untenable. The judgement of the Authority for Advance Rulings referred to by the appellant is not being analysed here because rulings of the Authority for Advance Rulings did not constitute any binding precedent at all, although it may be mentioned, that in the said judgement, the said Authority has made the following observation:-

> "*As long as the supply of furniture, fixtures, lights and lighting fittings is in connection with the preparation, arrangement, erection or decoration of a pandal or shamiana as defined in sub-section (77a) of the Act, the applicant would be covered by the definition of 'pandal or shamiana contractor.*"

4. In the light of the foregoing analysis, we find that the appeal has no merit and is therefore dismissed.

(Justice G. Raghuram)
President

(R.K. Singh)
Member (Technical)

SSK