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: **21/10/2015**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **ST/A/53139/2015-CU[DB]** dated **08/10/2015**

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/381/2009	**PUNJ LLOYD LIMITED,** 78, INSTITUTIONAL AREA, SECTOR-32, GURGAON-122001.
		Name and Address of Respondent
2		-C.S.T. DELHI 17-B, I.P. Estate, IAEA House, New Delhi.

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

V. Lakshmi Kumaran
5, Jangpura Extension,
Link Road, New Delhi,
Delhi-110014

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: 08.10.2015

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/381/2009-CU[DB]

[Arising out of Order-in-Original No.CCE/ADJN/PKJ/02/09, dated 26.02.2009 passed by the C.C.E.(Adjudication), New Delhi]

M/sPunj Lloyd Ltd. Appellant

Vs.

C.S.T., Delhi Respondent

Appearance

Mr. BL Narasimhan, Advocate - for the appellant

Mr. Satyaveer Singh, DR - for the respondent

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

Final Order No. 53139/2015, **dated 08.10.2015**

Per Justice G. Raghuram :

Heard ld. counsel for the appellant and ld. Departmental Representative for Revenue.

2. Assessee has preferred the appeal against the adjudication order dated 26.02.2009 passed by C.C.E.(Adjn), New Delhi confirming service tax demand of Rs.10,80,68,227/-; appropriated Rs.10,60,98,488/- and Rs.19,69,788/-, already remitted by the appellant towards the tax component; Confirming demand of Rs.52,59,040/- towards the interest component; penalty equivalent to the tax liability determined, under Section 78 and penalty as specified under Section 77 of the Finance Act, 1994.

3. On the admitted factual scenario, during September, 2005 to March, 2006, the appellant, under an agreement dated 11.08.2005 with the Oil and Natural Gas Corporation Ltd. (ONGC) provided under a lump sum contract for a

specified consideration design, engineering including surveys, procurement, clearing and grading of various specified good for execution of works involving trenching, welding, joint coating, etc. All works pertained to Uran-Trombay Jawahardweep Oil Pipeline and 30" Oil Pipeline from Tee off at Sheva South to JNPT terminal.

4. Proceedings were initiated against the appellant by a Show Cause Notice dated 19.12.2007 alleging rendition of the taxable 'Commercial or Industrial Construction Service' (CICS) defined under Section 65 (25b) read with Section 65 (105) (zzq) of the Act proposing levy of tax, interest and penalty as was eventually confirmed. The appellant contested the proceedings contending *inter alia*, that the works executed by it and the services provided thereby were in the nature of indivisible works contract, which became taxable only with effect from 01.06.2007 and not prior thereto; that CICS was a distinct taxable service and did not include indivisible works contract within its ambit and therefore there was no liability to tax on the appellant herein.

5. Negating the contentions, the impugned order confirmed demand of service tax, interest and penalties as adverted to.

6. On a true and fair construction of the agreement between the parties, i.e., the appellant and ONGC dated 11.08.2005, the conclusion is irresistible that since it is a lump sum contract though the specified milestones for payment indicate payments to be made by ONGC stage-wise during rendition of the contract including separately for installation of equipment which go into the execution of the composite contract, the contract is involved is clearly a works contract.

7. The issue whether works contract is taxable under the category of CICS prior to 01.06.2007 is no longer *res integra*. The issue stands concluded by the judgement Supreme Court in ***CCE, Kerala Vs. M/s. Larsen & Toubro Ltd. & Anr [2015-SCC Online-SC-738]*** which categorically and unambiguously declares the legal position that works contract is taxable only with effect from 01.06.2007 and not earlier thereto and that the definition of CICS does not inhere either an appropriate charging provision or a computation provision for legitimising levy ~~of~~ and collection of tax.

8. In the light of the law declared, the impugned order is unsustainable and is accordingly quashed. The appeal is allowed. No costs.

(Justice G. Raghuram)
President

(R.K. Singh)
Member (Technical)

SSK