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: **19/01/2016**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **ST/A/53884/2015-CU[DB]** dated **30/11/2015**

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.**

19/01/16
**A.R/D.R (CUSTOMS Appeal Branch)**

| | Application | Appeal | Name and Address of Appellant |
|---|---|---|---|
| 1 | ST/Stay/50731/2014 | ST/50573/2014 | **Decorators Pvt Ltd**<br>A-1,whs Kirti Nagar<br>KIRTI NAGAR<br>NEW DELHI<br>110015 |
| | | | Name and Address of Respondent |
| 2 | | | C.C.-Delhi - I<br>GATE NO.2,C R BUILDING...I<br>P ESTATE, DELHI-110109 |

**Copy To**

3Advocate(s) / Consultant(s):

**S. K. Pahwa,Adv**
**D-75, AMAR COLONY,**
**LAJPAT NAGAR - IV,**
**NEW DELHI,**
**DELHI-110024**

**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

19/01/16
**A.R/D.R (CUSTOMS Appeal Branch)**

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# CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

**COURT-I**

**Date of hearing/decision: 30.11.2015**

**Stay Application No.50731 of 2014 and Service Tax Appeal No.50573 of 2014**

Arising out of the order in appeal No.224/ST/DLDH/2013 dated 17.10.2013 passed by the Commissioner (Appeals) ,Central Excise, Delhi I.

For approval and signature:

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

| | | |
|---|---|---|
| 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? | |

Decorators Pvt. Ltd. .. Appellant

Vs.

C.S.T., New Delhi .. Revenue

Appearance:

Present Shri S.K. Pahwa with Shri Rohan Pahwa, Advocates for the appellant
Present Shri Amresh Jain, A.R. for the Respondent/ Revenue

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

Final Order No .53884/2015

Per R.K. Singh:

Stay petition along with appeal is filed against order in appeal dated 17/10/2013 which upheld the order in original dated 12/04/2012 in terms of which service tax demand of Rs. 5,17,789/- was confirmed for the period April 2009 to September 2010 under commercial or industrial construction service (CICS) alongwith interest and penalty.

2. Ld. advocate for the appellant has contended that the appellant has already deposited Rs. 1.5 lakhs and that for the similar demand for a different period in the appellant's own case the CESTAT has allowed its appeal by way of remand and therefore the present case may also be similarly remanded.

3. Ld. A.R. for Revenue has contended that the service provided by the appellant was in the nature of completion or finishing services and therefore it was not entitled to the benefit of 67% abatement under the Notification No.s15/2004 – ST or 1/2006 – ST. However he, conceded that the benefit of notification No. 12/2003 – ST can be considered in respect of material supplied in the course of rendering the impugned service provided the appellant was able to satisfy the conditions of the said notification.

4. We have considered the submissions/contentions of both sides. We find that in the appellant's own case, CESTAT vide final order number ST/A/53323 – 53324/2015 dated 31/07/2015 in respect of an appeal involving similar demand for different period allowed the appeal by way of remand in the following terms:

> *5. In the light of the foregoing, we allow the appeals by way of remanding the case for de novo adjudication to the adjudicating authority*

*with the direction that the impugned demand may be recomputed after allowing the benefit of Notification No.12/2003-ST provided the appellant-assessee is to able to demonstrate that it satisfied the conditions of the said Notification for which the appellant-assessee may be granted an opportunity of being heard. Needless to say that the penalties will also need to be recomputed in the wake of the re-computation of demand. As the case of the appellasnt-assessee has been disposed of by way of remand, Revenue's appeal also get disposed of because the penalty aspect will also be recovered in d novo adjudication process. Both the appeals stand disposed of on the above terms.*

5. in view of the foregoing and for the reasons contained in the aforesaid order of CESTAT dated 31/07/2015, we waive the requirement of any further pre-deposit and allow the appeal by way of remand to the primary adjudicating authority for adjudication with the direction that the impugned demand be recomputed after allowing the benefit of notification No. 12/2003 – ST provided the appellant is able to demonstrate that it satisfied the conditions of the said notification for which the appellant shall be granted an opportuntiy of being heard. Needless to say that the penalty will also need to be recomputed in the wake of the recomputed demand.

(Justice G. Raghuram)
President

(R.K.Singh)
Technical Member

scd/