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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066
CUSTOMS APPEAL BRANCH

Dated: **15/12/2015**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **ST/A/53710/2015-CU[DB]** dated **20/11/2015**

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.**

17.12.15

Asstt. Registrar(CUSTOMS Appeal Branch)

Application	Appeal	Name and Address of Appellant
1	ST/478/2011	**KATIYAL & ASSOCIATES,** 578, SNEH NAGAR, INDORE. (M.P.)

Name and Address of Respondent

2 -C.C.E. INDORE
Manik Bagh Palace,
Post Box No. 10,
Indore 452001 (M.P.)

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

Alok Barthwal,Adv
227-B&C BASNI TRADE CENTER,
581/5,M.G.ROAD,
INDORE,
MADHYA 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 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. 1

Date of hearing/decision: 20.11.2015

For Approval and Signature:

Hon'ble Mr. R. K. Singh, Member (Technical)
Hon'ble Mr. Sulekha Beevi C.S., Member (Judicial)

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. 478 of 2011
(Arising out of order No. IND/462-463/2010 dated 24.12.2010 passed by the Commissioner (Appeals) Central Excise, Indore)

M/s Katiyal & Associates — Appellant

Vs.

CCE, Indore — Respondent

Appearance:

Shri Manish Saharan, Advocate for the appellant
Shri Ranjan Khanna, DR for the Respondent

Coram: Hon'ble Mr. R. K. Singh, Member (Technical)
Hon'ble Mr. Sulekha Beevi C.S., Member (Judicial)

Final Order No. **53710 / 2015**

Per: **R. K. Singh**:

Appeal has been filed against order-in-appeal dated 30.12.2010 in terms of which service tax demand of Rs. 12,98,148/- for the period 2002-03 to 2006-07 was sustained alongwith interest and penalties under Business Auxiliary Service (BAS) on the ground that the appellant provided the said service but did not pay service tax thereon.

2. Ld. Advocate for the appellant states that the service was provided by the appellant to various banks in accordance with an agreement in terms of which it was required to verify the details relating to residential address and /or employer's office address or any other details in respect of the applicants seeking financial assistance from various banks and in respect of which these banks sought such verification. Thus, the only service rendered was to verify the particulars of the various applicants who sought any service from the banks and such service was covered under Business Support Service (BSS) which came into effect from 01.06.2006 and it has been paying service tax thereunder since then and the Revenue has been accepting the same. He cited the judgment in the case of ***Rakesh Porwal & Associates vs. CCE, Jaipur-II – 2011 (24) STR 408 (Tri. Del.)*** and ***S. R. Kalyanakrishan vs. CCE, Cochin – 2008 (9) STR 255 (Tri. Bang.)*** in support of his contention.

3. Ld. DR, per contra, contended that evaluation of customers is covered under BAS and therefore the impugned order is sustainable.

4. We have considered the contentions of both sides. We find that the only service rendered by the appellant is to verify the details regarding residential address and / or office address of the employer etc. given in the applications submitted to various banks. Mere verification of the details given

in the application would not qualify to be called evaluation of the customers or promoting / marketing the service of the banks and hence would not be covered under BAS as defined under Section 65(19) of the Finance Act, 1994. Any elaborate discussion on this issue is obviated by the fact that the issue involved has been settled by CESTAT in the case of ***Rakesh Porwal & Associates*** (supra) wherein it was held as under:

> "3. *After hearing the ld. DR, we find that there is no dispute about the type of service being provided by the appellant. It is clear from the agreement as also from the findings of fact by the lower authorities that the appellant had only provided the services of contact point verification of residence and offices. As such, it is clear that it is only the contact point that is the addresses given by the client of the bank which are required to be verified. No further service is being provided by the appellant. The verification of the addresses given by the clients cannot be held to be a service equivalent to promoting or marketing the services of the bank or evaluating their prospective customers. As such we are of the view that the services being provided by the appellant cannot be held to be covered under the category of Business Auxiliary Services. We accordingly set aside the impugned order and allow the appeal with consequential relief to the appellant*".

Indeed similar view was held by CESTAT in the case of ***S. R. Kalyanakrishan*** (supra) where it was observed that verification of correctness, fairness and authenticity of information furnished by those seeking loan from Bank would not be classifiable under BAS. In the light of the foregoing, we hold that the impugned order is not sustainable and therefore the same is set-aside and the appeal is allowed.

(R. K. Singh)
Member (Technical)

(Sulekha Beevi C.S.)
Member (Judicial)

Pant