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: **10/11/2015**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **ST/A/53399/2015-CU[DB]** dated **19/10/2015**

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/Stay/60847/2013	ST/60048/2013	**National Garage** Tatibandh G.e.road RAIPUR CHHATTISGARH
		Name and Address of Respondent
2		C.C.E. & S.T.-Raipur CENTRAL EXCISE BUILDING,DHAMTARI ROAD, TIKRAPARA, RAIPUR, CHHATTISGARH-492001

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

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 AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI PRINCIPAL BENCH, COURT NO. II

Application No. ST/STAY/60847/2013
Appeal No. ST/60048/2013-ST (DB)

[Arising out of Order-in-Appeal No. 86(ST)/RPR-I/2013 dated 15.05.2013 by the Commissioner of Customs, Central Excise & Service Tax (Appeals), Chhattisgarh].

For approval and signature:
Hon'ble Shri Ashok Jindal, Member (Judicial)
Hon'ble Shri R.K. Singh, Member (Technical)

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. National Garage ....**Appellants**

Vs.

C.C.E. & S.T. Raipur ....**Respondent**

Appearance:

None appeared for the Appellant
Shri B.B. Sharma, DR for the Respondent

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

Date of Hearing: 19.10.2015

FINAL ORDER NO. 53399 /2015-ST(DB)

<u>Per Ashok Jindal:</u>

The applicant is in appeal along with application for stay.

2. Despite notice none appeared on behalf of the appellant nor any request for adjournment has been received. Therefore, matter is taken up for consideration.

Ashok Jindal

3. On perusal of the impugned order we find that a demand of service tax of Rs. 80,113/- has been confirmed against the appellant treating the appellant is an agent of an authorized dealer. In fact, appellant is an authorized dealer of M/s. Tata Motors Ltd.

4. As appellant remained unrepresented before the lower authorities, therefore, impugned order has been passed. But, it is a fact on record that the agreement which is in question was placed before the Ld. Commissioner (A) for his examination, but the Ld. Commissioner (A) has not considered the said agreement but passed the order holding that as appellant remained unrepresented before the Adjudicating authority. Therefore, grounds taken at appellant's stage are not considerable. On examining the records placed before us we find that Ld. Commissioner (A) was required to pass order on merits. After considering the contents of the agreement between the appellant and M/s. Tata Motors Ltd. which Ld. Commissioner has failed to do so. We also take note of that before the adjudicating authority these facts were not placed by the appellant. In these circumstances, it would be in the interest of the justice to consign the matter to the adjudicating authority to decide the issue on its own merits after considering the contents of the agreement placed before the Ld. Commissioner (A) by the appellant.

5. In these circumstances, we set aside the impugned order and remand the matter back to the adjudicating authority to pass an appropriate order on the merits of the case after taking note of the

agreement between the appellant and M/s. Tata Motors Ltd. Stay applications are also disposed of in the above terms.

(Dictated and pronounced in the open court)

9/11/15

(R.K. Singh)
Member (Technical)

(Ashok Jindal)
Member (Judicial)

Bhanu