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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: 23/09/2014

To

Appellant as per address in table below
Respondent as per address in table below

Final Order No. **ST/A/53657/2014-CU[DB]** dated **11/09/2014**

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/553/2009	**RRK INTERIORS PVT. LTD.** A-4, GEETANJALI ENCLAVE, MALVIYA NAGAR, NEW DELHI
		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):

S. K. Pahwa
Marwah & Pahwa, 45,
Aradhana Sector 13, R. K.
Puram,
New Delhi-110066

4 Bar Association, CESTAT, Delhi
5 Director Publications, Customs, Excise. I.P. Estate, Delhi
6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3
7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17
8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005
9 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15
10 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
11 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070
12 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38
13 C.D.R. **14** Office Copy **15** Guard File

Asstt. Registrar(CUSTOMS Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI PRINCIPAL BENCH, COURT NO. III

Service Tax Appeal No. 553 of 2009-Cus[DB]

[Arising out of Order-In-Original No. 31/VKG/2009 dated 6.04.2009 passed by Commissioner of Service Tax, New Delhi]

For approval and signature:
Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Rakesh Kumar, Member (Technical)

1	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
3	Whether Their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

M/s. PRK Interiors Pvt. Ltd. Appellants

Vs.

Commissioner of Service Tax Respondent
New Delhi

Appearance:
Shri S.K. Pahwa, Advocate for the Appellants
Shri Amreesh Jain, AR for the Respondent

CORAM:
Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Rakesh Kumar, Member (Technical)

Date of Hearing/decision: 11.09.2014

ORDER NO. FO/ 53657 /2014-Cus(Br)

Per Archana Wadhwa (for the Bench):

After hearing both sides, we find that appellants are interior contractors and registered with the Service Tax department for payment of service tax. The dispute in the present appeal relates to the value of services which are liable to be taxed. The Revenue authorities have determined the service tax on the full value of the service tax contract whereas the appellants' contention is that the same is liable to be paid only on the value of service by excluding the cost of the material used, as also by including the free supplied material.

2. We find that both sides agree that the issue stand decided. The Hon'ble High Court of Delhi in the case of G D Builders vs. Union of India [2013 (32) STR 673 (Del)] has held that service tax is liable only on the value of the ~~consignment~~ services and the same cannot be held to be inclusive of cost of the material so used. As such, the cost of the material is required to be excluded, for which purpose the matter is remanded. It is open for the appellant to produce evidence as regards the cost of the material so used.

3. Similarly, the Tribunal in the case of Bhayana Builders (P) Ltd. vs. Commissioner of Service Tax, Delhi [2013 (32) STR 49] has held that the value of free supplied items are not required to be included in the value of service. Keeping in view all the above, the matter is remanded. Lower authorities will quantify the value of the goods as per declaration of law. The appeal is allowed by way of remand.

(Dictated and pronounced and in the open court)

16/9/14

(Archana Wadhwa)
Member(Judicial)

17/9/14

(Rakesh Kumar)
Member(Technical)

ss