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: **22/10/2014**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **ST/A/54026/2014-CU[DB]** dated **16/10/2014**

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/493/2009	**DARBAR TRANSPORT COMPANY,** A-29, TRANSPORT NAGAR, AGRA ROAD, JAIPUR (RAJ.)
		Name and Address of Respondent
2		**C.C.E. JAIPUR I** N.C.R.Building, Statue Circle, "C" Scheme, jaipur 302005.

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

Arvlind Sharma & Associates.
C-1A, SUFAL APARTMENTS,
S.J.S. HIGHWAY, BANI PARK,
JAIPUR
RAJASTHAN

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 C.D.R. **15** Office Copy **16** 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.
Principal Bench, New Delhi

COURT NO. III

DATE OF HEARING : 16/10/2014.
DATE OF DECISION : 16/10/2014.

Service Tax Appeal No. 493 of 2009

[Arising out of the Order-in-Appeal No. 07 (DK) ST/JPR-I/2009 dated 10/02/2009 passed by The Commissioner (Appeals - I), Central Excise & Customs, Jaipur.]

For Approval and signature :
Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri 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 would 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 Department Authorities?	:	Yes

M/s Darbar Transport Company Appellant

Versus

CCE, Jaipur – I Respondent

Appearance

Ms. Sukriti Das, Advocate – for the appellant.

Shri Sanjay Jain, Authorized Representative (DR) – for the Respondent.

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

Final Order No. 54096/2014 Dated : 16/10/2014

Per. Archana Wadhwa :-

The appellant is a transport agency, who entered into an agreement with its customers for doing the transportation business. However, the appellant does not have his own trucks and for the purpose of transportation, hires the same from the individual truck owners to whom he pays a part amount as rent. In the process he saves a small amount for himself.

2. The appellant has discharged its service tax liability on the entire amount of consideration received from its customers, under the category of GTA services. However, in as much as the appellant was saving a small amount, Revenue created tax liability on the same on the ground that by promoting the business of individual truck owners, they have earned the said amount as commission and they are again liable to pay service tax on the said amount.

3. Though we find no favour with the said stand of the Revenue, but keeping in view that the appellant has already discharged its service tax liability on the total collected amount from its customers, creating a duty liability in respect of a part amount from the same would amount to double taxation. On the same ground, the Tribunal in the case of **Jai Shree Road Lines vs. CCE, Jaipur – II** reported in **2013 (31) S.T.R. 226 (Tri. – Del.)** has set aside the demand. By following the said decision, we find no merits in the impugned order passed by the

authorities below. The same are accordingly set aside and appeal allowed with consequential relief to the appellant.

(Dictated and pronounced in open court)

17/10/14

(Archana Wadhwa)
Member (Judicial)

20/10/14

(Rakesh Kumar)
Member (Technical)

PK