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: **05/05/2015**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **ST/A/51477-51478/2015-CU[DB]** dated **28/04/2015**

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/55675/2013	**Khandal Construction** (partnership Firm) Matrachaya,shyam Path,arya Nagar,near Sbi ALWAR RAJASTHAN
2	ST/55677/2013	**Sandeep Sharma** (proprietor Partner) M/s Shri Khandal Construction Matrachaya Shyam Path,arya Nagar Near Sbi ALWAR RAJASTHAN
		Name and Address of Respondent
3		C.C.E. & S.T.-Jaipur-i NCR BUILDING, STATUE CIRCLE, C-SCHEME, JAIPUR, RAJASTHAN-302005
4		C.C.E. & S.T.-Jaipur-i NCR BUILDING, STATUE CIRCLE, C-SCHEME, JAIPUR, RAJASTHAN-302005

Other Appellants and Respondents as per Annexure

P.T.O

Copy To
5Advocate(s) / Consultant(s):

Pawan Shree Agrwal, Advocate
B-9, SAGAR APARTMENTS,
6, TILAK MARG,
NEW DELHI,
DELHI

6 Additional Party's Name & Address :
7 Bar Association, CESTAT, Delhi
8 Director Publications, Customs, Excise. I.P. Estate, Delhi
9 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3
10 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17
11 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005
12 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15
13 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
14 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070
15 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38
16 C.D.R. **17** Office Copy **18** 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

Date of Hearing 28.04.2015

For Approval &Signature :

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

1.	Whether Press Reporter 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?	Yes
3.	Whether Lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	Yes

Appeal Nos.ST/55675 & 55677/2013-CU[DB]
[Arising out of Order-in-Original No.30/2012-13, dated 31.08.2012 passed by the C.C.E., Jaipur-I]

M/s. Khandal Constructions (Partnership Firm)
M/s. Khandal Constructions (Proprietorship Firm)
Shri Sandeep Sharma (Proprietor, Partner) Appellants

Vs.

C.C.E.&S.T., Jaipur-I Respondents

<u>**Appearance**</u>
Shri Krishna Mohan Menon, Advocate - for the appellants

Shri Govind Dixit, DR - for the respondents

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

Final Order Nos. 51477-51478/2015, **dated 28.04.2015**

Per Justice G. Raghuram :

Stay Applications in these three appeals were disposed of by us on 16.12.2014. The appellants were directed to deposit Rs.60 lakhs along with interest, in the ratio of 5:1 within 8 weeks and report compliance on 27.02.2015. This was the condition for granting waiver of pre-deposit of the balance confirmed quantum of service tax, interest and penalties against all the appellants.

2. Against order dated 16.12.2014, the appellants filed Writ Petition Nos.3431/2015, 3432/2015 and 3430/2015, respectively. In the Writ Petitions an Interim Order was passed on 20.03.2015 directing the appellants to comply with the condition of compulsory pre-deposit, in terms of Section 35F of the Central Excise Act, 1944 (as amended with effect from 06.08.2014 by the Finance Act, 2014), within two weeks.

3. The appellant in Appeal No.ST/55675/2013 is a partnership firm comprising Shri Sandeep Sharma and had filed the Writ Petition No.3431/2015 in the High Court of Delhi. The appellant in Appeal No.ST/55676/2013 is a proprietorship firm of Shri Sandeep Sharma, which filed Writ Petition No.3432/2015. Shri Sandeep Sharma in Appeal No.ST/55677/2013, had filed the Writ Petition No.3133/2015 and the appeal before us against imposition of penalty.

4. Shri Sandeep Sharma deposited Rs.9,70,616/-, in compliance with the High Court's order dated 20.03.2015 in respect of appeals preferred by the proprietorship firm and himself. In terms of Section 35F of Central Excise Act, 1944 as amended with effect from 06.08.2014,

7½ % of the confirmed amount of service tax or penalty as the case may be is required to be deposited. In terms of the said provision, the compulsory deposit in Appeal Nos.ST/55676 and ST/55677 of 2013 comes to Rs.9,79,746/-. However, only Rs.9,70,616/- has been deposited. Ld. counsel for the appellants states that in the circumstances, the amount deposited be credited to Appeal No. ST/55676/2013 (filed by the proprietorship firm).

5. In the light of the facts and developments recorded above, for failure of compliance with the Interim Order of the High Court dated 20.03.2015, we dismiss ST/55675/2013 (for total failure of pre-deposit); credit the amount of Rs.9,79,616/- deposited by Shri Sandeep Sharma as a compulsory pre-deposit in Appeal No.ST/55676/2013 and dismiss Appeal No.ST/55677/2013 preferred by Shri Sandeep Sharma against the penalty imposed against him.

(Justice G. Raghuram)
President

(R.K. Singh)
Member (Technical)

SSK