

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

Appeal No. ST/74-⁷⁵/2007 ST/74-75/2007

Date 04/02/2008

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S SILVERLINE EXPRESS
61-62, AMRIT NAGAR, SOUTH EXT. PART-I, NEW
DELHI
110003

M/S SILVERLINE EXPRESS

Appellant

Vs

Respondent

C.C.E. DELHI

I am directed to transmit herewith a certified copy of Final order No. ST/23-24/08 Customs dated 30-1-08
passed by the Tribunal under Section 129, (B) of the Customs Act, 1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent

C.C.E. DELHI

IAEA HOUSE, 17-B, M.G. MARG, I.P. ESTATE, NEW
DELLHI
110002

2. Adv. / Consult

MR.CORPORATE LEXPORT

K-1/114, FIRST FLOOR, CHITTARANJAN PARK, NEW DELHI - 110019.

3. S.D.R.

4. J.C.D.R.

5. Bar association, CESTAT, New Delhi

6. M/s. Deeparchi Publications, M-93, marg. 43, saket, New

7. M/s Centax Publications (P) Ltd., 1512-E, Bhisim Pitamah

8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301

9. R.Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -

10. Nidheshak publications, I.P.Estate, new Delhi

11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,

12. Co, Law Institution

13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070

14. Office Copy

15. Guard file


Assistant Registrar

(Customs Appeal Branch)

M/S SKYLARK EXPRESS

c/o Appellant

1

**IN THE CUSTOMS, EXCISE & SERVICE
TAX APPELLATE TRIBUNAL,
WEST BLOCK NO. 2, R.K. PURAM,
NEW DELHI**

COURT -II

SERVICE TAX APPEAL Nos. 74 & 75 of 2007

[Arising out of Order-in-Original Nos. 37/RK/2006 dated 12.10.2006
& 4/RK/2006 dated 6.11.2006 both passed by the Commissioner,
Service Tax, Delhi]

For approval and signature:

Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. T.V. Sairam, 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?	
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	rw
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. Silverline Express,
M/s. Skylark Express

Appellants

Vs.

CST, New Delhi

Respondent

Appearance:

Shri Srinivas Kotni, Advocate for the appellants,
Shri R.K. Verma, SDR, for the Revenue

Coram:

Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. T.V. Sairam, Member (Technical)

Date of Hearing: 30.1.2008

FINAL ORDER NO. ST/23-24/08 dated 30/1/08

Per S.S. Kang:

Heard both sides. Since the common issue involved in both the appeals, they heard together.

2. Both the appellants are proprietorship concern of Shri Naveen Yadav and are providing courier service. Demands were confirmed and penalties imposed on the ground that the appellants were paid service tax in respect of courier service provided by them. The appellants are not contesting the issue on merit. The only contention of the appellants is regarding quantification of the demand and that the impugned order is passed in violation of principle of natural justice as the unrelid documents/hard disc ^{signed} received by the Revenue, which are not relied upon in the show cause notice, have not been returned to the appellants. In such situation the appellants were unable to put up proper defence in respect of quantification of the demands.

3. In respect of quantification of demands, contention of the appellants is that the demand is confirmed after taking into consideration the all amounts deposited in the bank account which are in respect of service provided by them as well as other deposits, such as redemption of mutual funds, sale of security, income from dividend, and bank charges in respect of return of security/caution money and other fund transferred from other accounts, etc. Contention is that the appellants also providing service to W.H.O. which is exempted from payment tax, and the amounts received from WHO were also added to the assessable value of service for the purpose of tax.

4. The appellants fairly admitted that in the case of Silverline Express they are not disputing the demand of service tax of Rs. 28,22,270/- and in the case of Skylark Express the demand of Rs. 17,14,000/- is not disputed.

5. Contention of Revenue is that now the appellants are claiming that the demands are not properly quantified. During investigation the appellants had not cooperated with the department. The contention of the Revenue is also that the appellants continued to provide service even after surrender of their registration.

6. We find that major portion of the demand is not contested by the appellants. Only contention of the appellants is that demand is not properly quantified since the amounts of all the deposits i.e. other

than deposits of service provided are included in assessable value. Contention is also that non-relied upon documents/hard-disc were not returned to the appellants to enable them to defend their case. We also take note that the appellants have already paid the amount of service tax as per adjudication order. In these circumstances we find that the matter requires to be reconsidered by the adjudicating authority in respect of pleas of the appellants regarding deposits made in the bank which are not related to service provided by them. Revenue is also directed to return all non-relied upon documents/hard disc so that the appellants can present their case properly. The adjudicating authority will also decide the issue of penalties afresh. In view of the above matter is remanded to the adjudicating authority to decide the same afresh in respect of the disputed amount of service tax after affording reasonable opportunity to the appellants. Accordingly, both the appeals are allowed by way of remand.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

(T.V. SAIRAM)
MEMBER (TECHNICAL)

Dated 31st January, 2008

RK