

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

Appeal No. ST/66 /2006

Date 08/02/2008

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

To :
RAAJ KHOSLA & CO PVT LTD
1105, SURYA KIRAN BUILDING, 19, K.G.MARG, NEW
DELHI
110001

RAAJ KHOSLA & CO PVT LTD

Appellant

C.C.E DELHI


Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. *ST/25/08* Customs dated
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
COMMISSIONER OF SERVICE TAX, DELHI, C.R.
BUILDING, I.P.ESTATE, NEW DELHI
2. Adv. / Consult
MR.A.K.BATRA & ASSOCIATES
40/2971, BEADON PURA, KAROL BAGH, N.DELHI
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, Bhishm 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)

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

Service Tax Appeal No.66 of 2006

[Arising out of Order-in-Original No. 02/RK/2005 dated 15.12.2005 passed by Commissioner of Service Tax, New Delhi.]

For approval and signature:

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

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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. Raaj Khosla & Co.

Appellant

Vs.

Commissioner of Central Excise,
New Delhi

Respondent

Appearance:

Shri A.K. Batra, Chartered Accountant for the Appellant
Shri R.K. Verma, SDR for the Respondent

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

Final ORDER NO. 57/25/08

Per S.S. Kang (for the Bench):

Heard both sides.

2. Applicant filed this appeal against the impugned order whereby the credit in respect of Rs.5,18,027/- of service tax and Rs. 57,527/- was disallowed.

3. In respect of credit of Rs. 5,18,027/-, the contention of the appellant is that the invoices were in the name of appellant. However, the address of the firm as given in the invoice was different from the address given in the registration certificate. The contention is that the appellants are working from different places and subsequently all the places were got registered with the Revenue and the Registration certificate was amended on 8.8.06. The address given in the invoice in dispute is now included in the registration certificate. In these circumstances, as the invoice is used in or in relation to the service provided by the appellant, the credit cannot be denied.

4. In respect of credit of Rs. 57,527/- the contention is that the credit was taken in the names of 'M/s. Shelters' and address of appellant is given. The contention is that appellant entered into an agreement with the Citibank for the use of their brand name 'shelters' and telephones were in the name of shelters only. The contention is that service is utilized in or in relation to the service provided by the respondents hence entitled for credit.

5. The contention of the Revenue is that the invoices were in the name of M/s. Shelter and there is no mention of the name of the appellant as the invoices were in the name of another legal entity therefore, the credit is not available.

6. In respect of the credit of Rs.5,18,027/-, the contention of the Revenue is that no doubt the invoices were in the name of the appellant but the address is different than mentioned in the registration certificate.

7. We find that the invoices were in the name of the appellant. However, the address is different than the registration certificate. Subsequently, the registration certificate was got amended by the appellant and office address on the invoices were also included in the Registration certificate. In these circumstances, the denial of credit of Rs.5,18,027/-, is not sustainable and hence, set aside.

8. In respect of credit of Rs.57,527/- duty paying documents were not in the name of appellant. Therefore, the appellants are not entitled for this credit. The denial of this credit is upheld. Impugned order is modified to that extent.

(Dictated in the open Court)

(S.S. Kang)
Vice President

(T. V. Sairam)
Member(Technical)

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