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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

Appeal No. ST/747 /2007
ST/STAY/2848/07

Date 20/03/2008

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

To :
C.C.E. CHANDIGARH
C.R. BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH 160017

C.C.E. CHANDIGARH — Appellant

Vs

M/S ROSHAN LAL RAVI DECORATORS — Respondent

I am directed to transmit herewith a certified copy of **Final order No. ST/46 / 2008 Customs** dated 17.03.08 passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

Alongwith Stay Order No ST/100/08

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
   M/S ROSHAN LAL RAVI DECORATORS
   PLOT NO. 54, INDS. ESTATE, SECTOR-I, PARWANOO,
   DISTT. SOLAN, H.P.
2. Adv. / Consult
   None
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 Publictions (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
(Custom Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH NEW DELHI, COURT NO. I

Service Tax Appeal No. 747 of 2007 with
Service Tax Stay No. 2848 of 2007
[Arising out of order in Appeal No. 434/CE/CHD/07 dated 27.9.2007 passed by the Commissioner (Appeals), Customs & Central Excise, Chandigarh]

Date of Hearing/ Decision: 17.03.2008

For approval and signature:

Hon'ble Mr. Justice S.N. Jha, President
Hon'ble Mr. M. Veeraiyan, 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?	:	Yes
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

CCE, Chandigarh — Appellant
[Rep. by Mr. B.K. Singh, DR]

Vs.

M/s Roshan Lal Ravi Decorators — Respondent
[None]

CORAM: Hon'ble Mr. Justice S.N. Jha, President
Hon'ble Mr. M. Veeraiyan, Member (Technical)

Final ORDER No ST/46/08
Stay Order No No ST/100/08

Per M. Veeraiyan:

This is an appeal filed by the Department against the order dated 27.09.2007 passed by the Commissioner (Appeals) by which the Commissioner (Appeals) has held that the respondent was eligible for the benefit of Notification No. 12/2003-ST dated 20.6.2003 and remanded the matter to the original authority for computing the taxable value and service tax liability of the respondent.

2. We do not find this to be a fit case for grant of stay. As only a short point is involved we proceed to hear and dispose the appeal itself.

3. Learned DR submits that the Commissioner (Appeals) has accepted the certificate from the Chartered Accountant and the purchase bills as evidence for use of material in rendering the service and accordingly allowed abatement of the value of such materials. Acceptance of these documents is against the spirit of the guidelines dated 7.4.2004 issued by the Board.

4. We have carefully considered the submissions. The notification "exempts so much of the value of all the taxable services, as is equal to the value of goods and materials sold by the service provider to the recipient of service, from the service tax leviable thereon under Section (66) of the said Act, subject to condition that there is documentary proof specifically indicating the value of the said goods and materials". The notification has

not specified any particular document for the purpose of extending the benefit of the notification. Under these circumstances, the order of the Commissioner (Appeals) in accepting the Certificate of the Chartered Accountant and the purchase bills and holding that they are eligible for the benefit of notification cannot be held to be unreasonable. Further we find that the Commissioner (Appeals) has remanded the matter to the original authority for determining the actual duty liability in the light of directions given by him.

5. We, therefore, do not find any merit in the appeal of the department. The original authority shall determine the duty liability in his remand proceedings as directed by the Commissioner (Appeals).

6. The appeal is dismissed.

(Order dictated and pronounced in the open Court)

[Justice S.N. Jha]
President

[M. Veeraiyan]
Member (Technical)

[Pant]