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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/293 -94/2006 Date 15/07/2008

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

To :
M/S SHUBH LABH AGENCY
18, GOPALGANJ, SAAGAR (M.P)

M/S SHUBH LABH AGENCY Appellant
Vs
THE COMMISSIONER CENTRAL EXCISE, BHOPAL Respondent

I am directed to transmit herewith a certified copy of Final order No. ST/132-33/08 Customs dated 7/7/08 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
THE COMMISSIONER CENTRAL EXCISE, BHOPAL
NEAR MAIDA MILLS, HOSHANGABAD ROAD, BHOPAL (M.P)
2. Adv. / Consult
MR.SATISH KUMAR GOSWAMI
12 GOPAL GANJ, DR.GOUR MARG, NEAR BANGALI KALI BADI, SAGAR(M.P), 470001
3. S.D.R.
4. J.C.D.R.
5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017
7. M/s Centax Publictions (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)
9. Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
12. Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar,Chennai 60017
13. Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file

Assistant Registrar
(Customs Appeal Branch)

M/S Chhaya Agency
18, Gopal Ganj, Sagar (MP

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

Service Tax Appeal No. 293-294 of 2006-CST Br.

(Arising out of Order-in-Appeal No. 04-06/ST/BPL/2006 dated 16.1.2006 passed by the Commissioner of Central Excise (Appeals), Bhopal)

For approval and signature

HON'BLE MR. S.S. KANG, VICE PRESIDENT
HON'BLE MR. 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?	N
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	N
3.	Whether their Lordships wish to see the fair copy of the order?	Yes
4.	Whether order is to be circulated to the Departmental authorities.	N

M/s Shubhlabh Agency
M/s Chhaya Agency — Appellant

Vs.

CCE, Bhopal — Respondent

Appearance:
Shri S.K. Goswami, Advocate - For appellant
Ms. A.P. Tiwari, Jt. CDR - For respondent

CORAM:
HON'BLE MR. S.S. KANG, VICE PRESIDENT
HON'BLE MR. RAKESH KUMAR, MEMBER (TECHNICAL)

Date of Hearing: 7.7.2008

Final Order No. ST/132-133/08 dated 2/2/08

Per S.S. Kang:

Heard both sides.

2. Common issue is involved, therefore, the appeals are being taken up together.

3. The appellant filed these appeals against the impugned order whereby demand of Service Tax was confirmed by treating the appellant as provider of clearing and forwarding service. The lower authority relied upon the decision of the Tribunal in the case of Prabhat Jarda Factory Vs. CCE reported in 2002 (145) ELT 222).

4. We find that the decision in the case of Prabhat Jarda Factory (supra) is over-ruled by the decision of Larger Bench of the Tribunal in the case of Larsen & Toubro Ltd. Vs. CCE reported in 2006 (3) STR 321).

5. We find that the Commissioner (Appeals) in the impugned order in para-5 held that appellants are no doubt commission agent as is seen from the

agreement whether the commission agent is covered under the scope of clearing and forwarding agent is decided by the Larger Bench of the Tribunal in the case of Larsen & Toubro Ltd. (supra). The Tribunal held that the person engaged in procurement of orders on commission basis is not covered under service of clearing and forwarding agent. In view of the above decision, the impugned orders are set aside and appeals are allowed.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

RM