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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/80 /2006 Date 22/07/2008

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

To :
M/S UNIVERSAL AUDYOGIK SAMVARDHAN SAMITI
MORAK, DISTT. KOTA (RAJASTHAN)
326520

M/S UNIVERSAL AUDYOGIK SAMVARDHAN SAMITI Appellant

Vs

THE COMMISSIONER (APPEAL) CENTRAL EXCISE, Respondent
JAIPUR

I am directed to transmit herewith a certified copy of Final order No. ST.140/08 Customs dated 1.07.08

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 (APPEAL) CENTRAL EXCISE, JAIPUR
NCRB, STATUE CIRCLE, C-SCHEME, JAIPUR
2. Adv. / Consult Sh. Bipin Garg, Adv
B-1/1289-A Vasant Kunj, New Delhi

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)

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

Service Tax Appeal No. 80 of 2006-CST Br.

(Arising out of Order-in-Appeal No. 431 (MPM)/ST/JPR-I/2005 dated 24.11.2005 passed by the Commissioner (Appeals), Customs & Central Excise, Jaipur)

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?	
2.	Whether it would 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 Universal Audyogik Samvardhan Samiti — Appellant

Vs.

CCE, Jaipur — Respondent

Appearance:
Shri Bipin Garg, Advocate - For appellant
Shri R.K. Madan, DR - For respondent

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

Date of Hearing: 1.7.2008

Final Order No. ST/140/08 dated 1/7/08

Per S.S. Kang:

Heard both sides.

2. The appellant filed this appeal against the impugned order whereby demand of Service Tax was confirmed on the ground that the appellants were providing security agency services and penalties were imposed.

3. The only contention of the appellant is regarding quantification of demand. The contention is that the appellants are providing security service to M/s Manglam Cement and in addition to provide security service they are also supplying other personnel such as gardeners, sweeper and peons etc. The applicant also submitted that they are also providing service regarding security of movable property which was exempted during the period in dispute vide Notification No. 56/98-ST dated 7th October, 1998. The contention is that for the assessment of service tax, the lower authorities had taken into consideration the gross amount received from M/s Manglam Cement which is also in respect of providing

personnel such as sweeper, drivers, gardeners etc. and also for providing security service to the movable property.

4. The contention of the Revenue is that this contention of the appellant is considered by the lower authority, however, in absence of any evidence produced by them the demand was confirmed. The contention is that the appellants are not disputing that they are liable to Service Tax as provider of security agency services, therefore, the onus is on the appellant to show that gross amounts received from M/s Manglam Cement also includes some amounts which is not in respect of security agency services.

5. In this case, now the appellant has produced copies of invoices showing that they are also receiving amounts in respect of supply of driver, gardeners etc. and is not covered under the security agency services. In these

circumstances, we find it is a fit case for re-consideration by the lower authority. The impugned order is set aside and the matter is remanded to the adjudicating authority to decide afresh after affording an opportunity of hearing to the appellant. The appeal is disposed of by way of remand.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

RM