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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/368-69,371-78,380,382-88,390-91,393,395-400,415-16,418-19,426-28, & 430/2006 Date 04/08/2008

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

To :
C.C.E. CHANDIGARH
PLOT NO 19,SECTOER 17-C,CHANDIGARH.

C.C.E. CHANDIGARH Appellant

Vs

M/S DEEPAK COMPUTER KANDA Respondent

I am directed to transmit herewith a certified copy of **Final order No.** ST/151-185/08 Customs dated 24/6/08 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
   M/S DEEPAK COMPUTER KANDA
   G.T.ROAD,MANDI GOBINDGARH.
2. Adv. / Consult
   (1) Sh. Bipin Garg. Adv.
   B-1/1289A Vasant Kunj, New Delhi - 70
   (2) Sh. Kamal Jeet Singh. Adv.
   J-144 Patel Nagar-I opp. Roadways Bus Stand, Ghaziabad (U.P.)
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
16. Easy service tax online Dot Com (P) Ltd
    407A Iscon mall, above Star India Bazar
    Satellite Road,
    Ahmedabad - 15

Assistant Registrar
(Customs Appeal Branch)

16. M/S BANSAL COMPUTAR KANDA. - ST/427/06
G.T.ROAD.MANDI GOBINDGARH.

17 M/S DEEP COMPUTAR KANDA. . ST/426/06
MUGAL MAJRA ROAD.MANDIGOBINDGARH.

18 M/SPREM COMPUTAR KANDA - ST/419/06
R.G.MILL ROAD.MANDI GOBINDGARH.

19 M/S PARADISE STEEL ROLLING MILLS. - ST/430/06
G.T.ROAD.MANDIGOBINDGARH.

20 M/S R.P.COMPUTAR KANDA. - ST/418/06
AMLOH ROAD.MANDI GOBINDGARH.

21 M/S RAGHAV COMPUTAR KANDA . ST/426/06
DHARAM MILL ROAD.MANDI GOBINDGARH.

PTO

M/S ASHIRVAD COMPUTAR KANDA - ST/407/06
22 R.G. MILL ROAD.MANDI GOBINDGARH.

M/S BHAGWATI COMPUTAR KANDA. - ST/410/06
23 G.T.ROAD.MANDI GOBINDGARH.

M/S BHUSHAN COMPUTAR KANDA - ST/408/06
24 AMLOH ROAD.MANDI GOBINDGARH.

M/S GURU NANAK COMPUTAR KANDA. - ST/372/06
25 G.T.ROAD.MANDI GOBINDGAR.

M/S PARADISE STEEL ROLLING MILLS. - ST/406/06
26 G.T.ROAD.MANDI GOBINDGARH.

M/S PREM COMPUTAR KANDA - ST/395/06
27 R.G.MILL ROAD.MANDI GOBINDGARH.

M/S PUNJAB ELECTRONIC WEIGHBRIDGE. - ST/400/06
28 G.T.ROAD.MANDIGOBINDGARH.

M/S RAGHAV COMPUTAR KANDA - ST/353/06
29 DHARAM MILL ROAD,MANDIGOBINDGARH.

M/S S.K.COMPUTAER KANDA. - ST/377/06, ST/378/06
30 G.T.ROAD.MANDI GOBINDGARH.

M/S SAT KARTAR COMPUTAR KANDA. - ST/385/06
31 G.T.ROAD.MANDI GOBINDGARH.

M/S VISHWANATH COMPUTAR KANDA - ST/397/06, ST/396/06
32 G.T.ROAD.SIRHIND SIDE.MANDI GOBINDGARH.

M/S J.K.COMPUTER KANDA. - ST/365/06
33 MANDI GOBINDGARH.

M/S AKSHAR WEIGHBRIDGE - S.T| 30?/06, S.T| 382/06
G.T.ROAD.MANDIGOBINDGARH.
34

35 M/S ADARSH STEEL ROLLING MILLS - S.T| 415/06
ADARSH COMPUTAR KANDA.G.T.ROAD.MANDIGOBINDGARH.

36 M/S ADITYA ELECTRONIC WEIGHBRIDGE - S.T| 375/06
AMBAY MAJRA.MANDI GOBINDGARH.

37 M/S AKSHAR WEIGHBRIDGE
G.T.ROAD.MANDIGOBINDGARH.

38 M/S ASHIRVAD COMPUTAR KANDA - S.T| 404/06
R.G.MILL ROAD.MANDI GOBINDGARH.

39 M/S BANSAL COMPUTAR KANDA.
G.T.ROAD.MANDIGOBINDGARH.

40 M/S BHAGWATI COMPUTAR KANDA. - S.T| 412/06
G.T.ROAD.MANDIGOBINDGARH.

41 M/S BHUSHAN COMPUTAR - S.T| 409/06, S.T| 405/06
AMLOH ROAD.MANDI GOBINDGARH.

42 M/S DEEPAK COMPUTER KANDA - S.T|368/06, S.T| 388/06
G.T.ROAD.MANDI GOBINDGARH.

43 M/S DHIMAN STEEL ROLLING MILLS - S.T| 384/06
AMLOHB ROAD.MANDI GOBINDGARH.

44 M/S GURU NANAK COMPUTAR KANDA. - S.T| 376/06
G.T.ROAD MANDI GOBINDGARH.

45 M/S JYOTI COMPUTAR KANDA - S.T|386/06
G.T.ROAD.MANDI GOBINDGARH.

46 M/S PUNJAB ELECTRONIC WE[illegible] [illegible]DGE. – ST/ 4[illegible]/06
[illegible] ROAD.MANDI GOBINDGARH.

47 M/S R.G.STEEL & AGRO INDUSTRIES – ST/ 390/06, ST/ 391/06
(R.G.COMPUTAR KANDA) G.T.ROAD.SIRHIND SIDE.MANDIGOBINDGARH.

48 M/S RAJ STEEL ROLLING MILLS – ST/ 307/06
OWNER RAJ COMPUTAR KNAD.GURU KI NAGRI.MANDI GOBINDGAH.

49 M/S RANI COMPUTAR KANDA. – ST/ 373/06, ST/ 374/06
MODI MILL ROAD.MANDI GOBINDGAR.

50 M/S SAT KARTAR COMPUTAR KANDA. – ST/ 380/06
G.T.ROAD.MANDI GOBINDGARH.

51 M/S SHIVA COMPUTAR KANDA. – ST/ 403/06
AMLOH ROAD.MANDI GOBINDGARH.

52 M/S SHIVA COMPUTAR KANDA. – ST/ 411/06
AMLOH ROAD,MANDIGOBINDGARH.

53 M/S SHREE RAM COMPUTAR KANDA – ST/ 370/06, ST/ 397/06
G.T.ROAD.MANDI GOBINDGARH.

54 M/S SHRI AMBIKA STEEL INDUSTRIES – ST/ 401/06
AMLOH ROAD.MANDI GOBINDGARH.

55 M/S V.D. COMPUTAR KANDA – ST/ 414/06, ST/ 402/06
AMLOH ROAD.MANDI GOBINDGARH.

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. II
Service Tax Appeal Nos. 368-369, 371-378, 380, 382-388, 390-391, 393, 395-400, 415-416, 418-419, 426-428 & 430 of 2006

[Arising out of the Order-in-Appeal No. 497-530/CE/CHD/ 2006 dated 07/06/2006 passed by The Commissioner (Appeals), Central Excise, Chandigarh.]

For Approval and signature :
Hon'ble Shri S.S. Kang, Vice President
Hon'ble Shri 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 Department Authorities?	:

CCE, Chandigarh — Appellant

Versus

M/s Deepak Computers & ors. — Respondent

Appearance

Shri B.K. Singh, Authorized Representative (DR) – for the appellant.

S/Shri K.C. Singh, Saurab Bassi, Advocates and Atul Gupta – Co. Secretary - for the Respondent.

CORAM:**Hon'ble Shri S.S. Kang, Vice President**
Hon'ble Sh. Rakesh Kumar, Member (Technical)

DATE OF HEARING : 24/06/2008.

Final Order No. ST/151 to 185/08 Dated : 24/6/08

Per. S.S. Kang :-

Common issue involved, therefore, the appeals are being taken together. Revenue filed these appeals against the impugned orders, whereby the demand of service tax was set aside by treating that the respondents are not providing Business Auxiliary Service as defined under Section 65 (19) of Finance Act.

2. The respondents are managing Dharamkanta and were issuing weighment slips in respect of the goods which were weighed at the Dharamkanta. The revenue issued various show cause notices to respondents on the ground that respondents are providing Business Auxiliary Service in relation to marketing of goods. The Adjudicating Authority confirmed the demand. The Commissioner (Appeals) in the impugned order held that the respondents are not at all provided any service with regard to promotion or marketing or sale of goods as they are not concerned with goods nor with marketing or selling the goods. The respondents do not have any interest in the sale on or marketing of the goods or in the nature of goods to be weighed. The respondents do not even know whether the goods under weighment are for sale or for captive consumption.

3. The contention of revenue in the present appeal is that without weighment of goods, the goods cannot be sold in the market. For sale of goods the, weighment is necessary requirement and without ascertaining the weight of goods the sale is not possible. It is also submitted by revenue that Business Auxiliary Service means any service in relation to promotion or marketing or sale of goods produced. A service incidentally or auxiliary to promotion or marketing is also included in the Business Auxiliary Service. As the

respondents are providing a service incidental or auxiliary to the service in relation to marketing or sale of goods, therefore, are covered under the cover of Business Auxiliary Service.

4. We find that in these appeals, the respondents are owner of Dharamkanta and they are undertaking the weighment of the goods. We find the Business Auxiliary Service means any service in relation to promotion or marketing or sale of goods, produced or provided by or belonging to clients. As respondents are not concerned with the sale or marketing of the goods, therefore, can not be said to be provider incidental or auxiliary service to any activity such as promotion or marketing or sale of goods produced. In these circumstances, we find no infirmity in the impugned orders. The appeals are dismissed.

(Dictated and pronounced in open court)

(S.S. Kang)
Vice President

(Rakesh Kumar)
Member (Technical)

PK