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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/490 /2006-493 /2006,495 /2006-502 /2006 Date 05/08/2008

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

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

C.C.E.CHANDIGARH Appellant

Vs

M/S BANKE BIHARI COMPUTER Respondent

I am directed to transmit herewith a certified copy of **Final order No.** ST/190-201/08 Customs dated 16/07/08 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
   M/S BANKE BIHARI COMPUTER
   G.T.ROAD,MANDI GOBINDGARH.
2. Adv. / Consult
   MR.R. SANTHANAM
   C-3/210, JANAK PURI, NEW DELHI - 110 058.
3. S.D.R.
4. A.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)

P.T.O.

1 M/S BANKE BIHARI COMPUTER
G.T.ROAD,MANDI GOBINDGARH.
2 M/S RANJEEV COMPUTERIZED WEIGHBRIDGE
AMLOH ROAD.MANDIGOBINDGARH.
3 M/S RANJEEV COMPUTERIZED WEIGHBRIDGE
AMLOH ROAD.MANDI GOBINDGARH.
4 PATIALA COMPUTER KANDA
G.T.ROAD, MANDI GOBINDGARH.
5 PATIALA COMPUTER KANDA
G.T.ROAD, MANDI GOBINDGARH.
6 GANESH COMPUTER KANDA.
G.T.ROAD (KHANNA SIDE) MANDI GOBINDGARH.
7 GANESH COMPUTER KANDA.
G.T.ROAD (KHANNA SIDE) MANDI GOBINDGARH.
8 A.K.COMPUTER KANDA.
MANDI GOBINDGARH.

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI

COURT – II

SERVICE TAX APPEAL NO. 490-93, 495-502 OF 2006

[Arising out of Order-in-Appeal No. 655-660/CE/CHD/06 dated 28.07.2006 passed by the Commissioner (Appeals), Central Excise, Chandigarh]

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?	

CCE, Chandigarh — Appellant

Vs.

M/s. Banke Bihari Computers,
M/s. Ranjeev Computerized Weighbridge,
M/s. Patiala Computer Kanda,
M/s. Ganesh Computer Kanda,
M/s. A.K. Computer Kanda,
M/s. Krishna Computer Kanda, — Respondents

Appearance:

Shri B.K. Singh, SDR, Departmental Representative, for the Revenue;
Shri R. Santhanam, Advocate for the respondents

Coram:

Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. Rakesh Kumar, Member (Technical)

Date of Hearing: 16th July, 2008

FINAL ORDER NO. ST/190-201/08 **dated** 16/7/08

Per S.S. Kang:

Heard both sides. Common issue is involved in all these appeals, therefore, they are being taken up together.

2. Revenue filed these appeals against the impugned order whereby demand of service tax was set aside on the ground that the respondents are not providing business auxiliary service as defined under Section 69 of Finance Act, 1994.

3. Respondents are managing dharma kanta and were issuing weighment slips in respect of goods weighed on dharm kanta. The case of the Revenue is that the respondents are providing business auxiliary service.

4. This issue is already settled by the Tribunal in service tax appeal No. 368-269, 371-378/2006 in the case of CCE, Chandigarh vs. M/s. Deepak Computers & Ors. Vide Final Order dated 24.06.2008. The Tribunal has held as under:-

"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 pro9motion or marketing or sale of goods produced. In these circumstances, we find no infirmity in the impugned orders. The appeals are dismissed."

In view of the above decision we find no merit in the appeals. Appeals are dismissed. Cross objection is also disposed of in above terms.

(Operative part of the order pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

Dated 31st July, 2008

RK