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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/447 /2008, ST/S/1371/08 Date 21/08/2008

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

To :
M/S RAJIT RAM POLISH WORKS
886/2, GALI NO.19,JEEVAN NAGAR,FOCAL POINT,LUDHIANA.

M/S RAJIT RAM POLISH WORKS Appellant
Vs
C.C.E. LUDHIANA Respondent

I am directed to transmit herewith a certified copy of **Final order No.** ST/210/08 **Customs** dated 11.8.08

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/3/0/08

Assistant Registrar

(Customs Appeal Branch)

Copy to :

1. Respondent
   C.C.E. LUDHIANA
   CENTRAL EXCISE HOUSE, 'F' BLOCK, RISHI NAGAR, LUDHIANA 141001 (PUNJAB)
2. Adv. / Consult
   MR.SUDHIR MALHOTRA.
   13-R, HUKAM CHAND COLONY, NEAR D.A.V COLLEGE, JALANDHAR
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. T[illegible]mann 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. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15
15. Office Copy
16. Guard file

Assistant Registrar
(Customs Appeal Branch)

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

Service Tax Appeal No. 447 of 2008 with Service Tax Stay Application No. 1371 of 2008

[Arising out of Order-in-Appeal No. 168/CE/Ldh/2008 dated 24.6.2008 passed by Commissioner of Customs & Central Excise (Appeals), Chandigarh]

For approval and signature:

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

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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? : NO
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

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M/s. Rajit Ram Polish Works — Appellant

Vs.

Commissioner of Central Excise
Ludhiana — Respondent

Appearance: Shri Sudhir Malhotra, Advocate for the Appellant
Mr. A.K. Madan, SDR for the Respondent

CORAM:

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

Date of decision : 11.8.2008

Final **ORDER NO. ST/210/08**
Stay Order No ST/310/08

Per M. Veeraiyan (for the Bench):

After hearing both the sides for a while on the stay petition, we proceed to finally dispose of the appeal on a short point.

2. The Commissioner (Appeals) has passed the stay order dated 30.4.08 without offering a personal hearing and directed the appellant to deposit a sum of Rs.1,80,000/- towards service tax and Rs.1,80,000/- towards penalty. The appellant has sought modification of the said stay order of the Commissioner (Appeals) and the same was rejected without affording an opportunity of personal hearing.

3. The learned advocate submits that their services are covered under Business Auxiliary services and exempted by Notification No. 8/2005-ST dated 1.3.05. He also submits that services will not be covered under the category of manpower recruitment and supply agency.

4. Ld. DR submits that the claim of the appellant that their services are covered under the Business Auxiliary Services and that they are eligible for benefit of notification No. 8/2005 which is conditional notification has not beeen gone into by the Commissioner (Appeals).

5. In view of the above, without expressing any views on the merits of the case, we set aside the order of the Commissioner (Appeals) and direct him to hear the appeals on merits without insisting on pre-deposit of the amounts as per the impugned order. He shall grant a reasonable opportunity of hearing to the appellant before deciding the issue afresh.

5. The appeal is allowed by way of remand. Stay petition is also disposed of.

(Dictated in the Open Court)

(Justice S.N. Jha)
President

(M. Veeraiyan)
Member(Technical)

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