

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
CUSTOMS APPEAL BRANCH**

Appeal No. ST/373 /2007 - CU[DB]

Date 27/11/2008

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

To :
M/S SHRINATH TRAVEL AGENCY
OPP. RAILWAY STATION POST OFFICE, NEAR
RAJPUTANA PALACE SHERATON, HOTEL, JAIPUR
M/S SHRINATH TRAVEL AGENCY

Appellant

Vs

C.C.E. JAIPUR I

Respondent

I am directed to transmit herewith a certified copy of **Final order No. ST/365**

2008 CU[DB] dated 21-11-08

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

C.C.E. JAIPUR I

N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME, JAIPUR 302005.

2. Adv. / Consult :

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 Publications (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New - 3

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), Thvagaraya Road, T. Nagar, Chennai

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)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-III

Date of hearing/decision: 21.11.2008

Service Tax Appeal No.373 of 2007

Arising out of the order in appeal No.80 and 81/(GRM)S.T./JPR-I/2007 dated 10.4.07 passed by the Commissioner (Appeals I), Customs & Central Excise, Jaipur.

For Approval and Signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K. Das, Member (judicial)

1	Whether Press Reporter 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 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

Appellant

M/s Shrinath Travel Agency

vs.

Respondent

C.C.E.,
Jaipur I.

Appearance:

Shri Alok Kothari, C.A. for the appellant
Shri Sunil Kumar, Authorized Departmental Representative (DR) for the Revenue

Coram : Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K. Das, Member (Judicial)

Final Order No. 51/365/08

Per M. Veeraiyan:

This is an appeal against the order of the Commissioner (Appeals) No.80 and 81/(GRM)S.T./JPR-I/2007 dated 10.4.07.

2. Appellants are owning 12 buses and were having contract carriage permits issued by the R.T.O. to ply those vehicles. By the

impugned order, the demand of service tax amounting to Rs.1,61,467/- relating to the period 1.4.2000 to 19.10.2000 has been upheld and penalty imposed.

3. Learned Advocate submits that levy of service tax on services provided by the tour operator relating to transport of passengers from one place to another was in dispute and there was also a general practice of non-levy of tax in the said category and the Central Govt. has issued a Section 11 C Notification No.15/2007-Service Tax dated 4.4.2007 granting partial exemption to the said services in view of prevalent practice. He submits that they are eligible for the exemption under the Notification No.15/07 referred above.

4. Learned DR submits that the Commissioner (Appeals) passed an order prior to receipt of this Notification and the claim of the appellant about applicability of this Notification has to be examined in the light of the conditions mentioned therein.

5. We have carefully considered the submissions from both sides. We deem it proper to set aside the orders of the Commissioner (Appeals) and the original authority and remand the matter to the original authority to consider the applicability of Notification No.15/2007 -Service Tax cited supra and work out the demand of duty accordingly. However, considering that the dispute has been lingering and that a Section 11C Notification has been issued in the light general practice, we hold that this is not a fit case for imposition of penalty.

6. Appeal is ^{allowed and matter} remanded on the above terms.

(Dictated and pronounced in the open Court)

(M. Veeraiyan)
Member (Technical)

(P.K. Das)
Member (Judicial)