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

Appeal No. ST/655 /2007-SM[BR] Date 07/02/2008

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

To :
PRAKASH DECORATORS
MR DHEERAJ GUPTA, 2752, ROSHANPURA, CHEERA KHANA, NAI SARAK, DELHI.
110006

PRAKASH DECORATORS Appellant

Vs

C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of Final order No.278/2008-SM[BR] dated 15.1.2008 passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
   C.C.E. JAIPUR I
   N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME,
   JAIPUR 302005.
2. Adv. / Consult
   MR.ATUL KUMAR GUPTA,CA (APRA & ASSO.)
   APRA & ASSOCIATES,259, AGGARWAL SHOPPING CENTRE,CD-BLOCK,PITAM PURA,DELHI-88
3. S.D.R.
4. ~~J.C.D.R.~~
5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, marg. 43, saket, New
7. M/s Centax Publictions (P) Ltd., 1512-E, Bhishm Pitamah
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301
9. R.Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,
12. Co, Law Institution
13. TAX INDIA, B-XI/8183,Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file

Assistant Registrar
(SM Appeal Branch)

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

Service Tax Appeal No. 655 of 2007-SM(BR)

(Arising out of Order-in-Revision No. 17/ST/2007 dated 8.5.07 passed by the Commissioner, Central Excise, Jaipur-I)

For approval and signature

HON'BLE MR. S.S. KANG, VICE PRESIDENT

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.**	

Prakash Decorators — Appellant

Vs.

CCE, Jaipur — Respondent

Appearance:
Shri Atul Kumar Gupta, CA - For appellant
Mrs. Archana P. Mittal, Jt. CDR - For respondent

CORAM:
HON'BLE MR. S.S. KANG, VICE PRESIDENT

Date of Hearing: 15.1.2008

Final Order No. 278/08-SM(BR) dated 15.1.08

Per S.S. Kang:

Heard both sides.

2. The appellant filed this appeal against the order in review passed by Commissioner of Central Excise whereby penalty under Section 76, 77 and 78 of Finance Act were imposed.

3. In the present case, the demand for Service Tax of Rs.9,286/- along with interest was made from the appellant for providing the service of Mandap Keeper. The appellant had paid Rs.9,286/- along with interest of Rs.5,892/- in respect of demand. The adjudicating authority appropriated this amount, however, dropped the proceedings regarding imposition of penalty. The order was reviewed by the Commissioner of Central Excise and penalties were imposed.

4. The contention of the appellant is that the appellants were under the bona fide belief that solemnization of marriage is a religious function, therefore, is not covered under the scope of Mandap Keeper. The contention is that an explanation was introduced by Finance Act 2007 to Section 60 of the Finance Act where it has been explained that for the purpose of this clause social function including marriage are also covered. The contention is that earlier the appellants were under bona fide belief that solemnization of marriage is a religious function, therefore, is not covered under the scope of Mandap Keeper. It is only from the date of this explanation where it has been clarified that social function including marriage is covered under the scope of Mandap Keeper. The

contention is that in such situation as the appellants were bona fide belief that they are not liable to pay Service Tax as Mandap Keeper hence not liable for any penalty.

5. The contention of the Revenue is that as the appellant had paid the Service Tax on the due dates and provided the service as Mandap Keeper are liable for penalty.

6. I find that Section 80 of Finance Act provides that no penalty shall be imposable under Section 76, 77 or 78 on the assessee for any failure referred to in the said provision if assessee proving that there was reasonable cause for the said failure. In the present case, the explanation is added with the Finance Act is also to include the social function such as marriage in the scope of service of Mandap Keeper. Therefore, the appellant comes under the explanation provided under Section 80 of the Finance Act, therefore, the imposition of penalty is set aside and appeal is allowed.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

RM