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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/318 /2007-SM[BR] Date 04/04/2008

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

To :
SHAMLI STEELS P.LTD.
PANIPAT RAOD, SHAMLI, DISTT. MUZAFFARNAGAR
(UP)

SHAMLI STEELS P.LTD. Appellant

Vs

C.C.E. MEERUT I Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 555 /2008 –SM[BR] dated 26.3.2008 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. MEERUT I
   EXCISE CHOWK, UNIVERSITY ROAD, MANGAL PANDEY NAGAR, MEERUT - 250005.
2. Adv. / Consult
   MR.RAJESH CHHIBBER
   FA/9, NEW KAVI NAGAR, GHAZIABAD
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, WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI

COURT – II

SERVICE TAX APPEAL No. 318 OF 2007-SM

[Arising out of Order-in-Original No. 18/COMM/MRT-I/207 dated 21.3.2007 passed by the Commissioner of Central Excise, Meerut-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?	No
2.	Whether it would 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?	Yes
4.	Whether order is to be circulated to the Departmental authorities?	No

M/s. Shanti Steels Pvt. Ltd., Appellants

Vs.

C.C.E, Meerut-I Respondent

Appearance:

Shri Rajesh Chhibber, Advocate for the appellants,
Ms. Archana P. Tiwari, Jt.CDR for the Revenue,

Coram:

Hon'ble Mr. S.S. Kang, Vice President,

Date of Hearing: 25th March, 2008

FINAL ORDER NO. 555/08-SM dated __________

Per S.S. Kang:

Heard both sides.

2. The appellants filed this appeal against the adjudication order passed by the Commissioner of Central Excise whereby demand of Rs. 53,291/- was confirmed and penalty of equal amount has been imposed under Section 78 of the Finance Act on the ground that the appellants are providing business auxiliary service.

3. Contention of the appellants is that they are working as sub-agent of Shri Rajiv Sanghi who is service provider and has deposited the service tax on the total commission earned by him which includes the amount of commission received by the appellants. Therefore, the appellants are not required again to deposit amount of service tax which has already been paid by Shri Rajiv Sanghi. The appellants submitted that Shri Rajiv Sanghi has also given a certificate to his effect which was produced before the adjudicating authority. Learned Advocate submitted that this contention was raised before the Commissioner, but the Commissioner has confirmed the demand without considering and verifying above contention.

4. Contention of the Revenue is that it requires verification, whether service tax on the business auxiliary service provided by the

appellants as sub-agent has already been paid by the main agent Shri Rajiv Sanghi.

5. I find that in this case contention of the appellant is that the amount in question has already been paid by Shri Rajiv Sanghi the person who provided business auxiliary service. The appellants are only sub-agent. This issue was specifically raised by the appellants before the adjudicating authority but there is no finding in the impugned order in this regard. Therefore, the fact whether service tax in question has already been deposited by Shri Rajiv Sanghi is required to be verified. Hence, impugned order whereby demand of Rs. 53,291/- was confirmed and penalty of equal amount imposed is ~~stayed~~ is set aside and the matter is remanded to the adjudicating authority to decide the same afresh after affording reasonable opportunity of personal hearing to the appellants. Appeal is disposed of by way of remand.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

Dated 26th March, 2008

RK