TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

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/343 /2008 - SM[BR] Date 16/09/2008

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

To :
C.C.E ALLAHABAD
38,M.G.MARG, CIVIL LINES, ALLAHABAD

C.C.E ALLAHABAD Appellant
Vs
M/S DARPAN COLOUR LAB Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 1310 / 2008 **SM[BR]** dated 1.9.2008 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
   M/S DARPAN COLOUR LAB
   M.P.BUILDING GOLGHAR,GORAKHPUR (U.P)
2. Adv. / Consult SHRI. S.P.OJHA ADV.
   299 BAGHAMBARI HOUSE SCHEME ALLAHPUR ALLAHABAD

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. 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. 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
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Service Tax Appeal No.343 of 2008-SM (BR)

[Arising out of Order-in-Appeal No.04-ST/ALLD/2008 dated 26.02.2008 passed by the Commissioner of Central Excise, Allahabad]

Date of Hearing/ Decision:01.09.08

For approval and signature:

Hon'ble Mr. P.K. Das, Member (Judicial)

1. Whether Press Reporters may be allowed to see CESTAT (Procedure) Rules, 1982.
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? :
4. Whether Order is to be circulated to the Departmental authorities? : Yes

CCE, Allahabad (U.P.) ...Appellants

[Rep. by Shri A.K. Rastogi, DR]

Vs.

M/s. Darpan Colour Lab. ...Respondent

[Rep. by Shri S.P. Ojha, Consultant]

CORAM: **Mr. P.K. Das, Member (Judicial)**

Final Order No. 1310/08-SM(BR)/Dated:01.09.2008

Per P.K. Das:

Revenue filed this appeal against Order-in-Appeal No.04/ST/APPL/ALLB/2008 dated 26.02.2008.

2. Ld. DR reiterates the Grounds of Appeal. He submits that the Commissioner (Appeals) failed to appreciate that the service tax Amnesty Plan was mooted by the Government of India to allow service provider to come under the tax net and should pay the tax within 30th November, 2004. He further submits that in the present case, the Respondent obtained Registration before introduction of Amnesty Scheme and, therefore, they are not eligible for the benefit of Amnesty Scheme. The Commissioner (Appeals) should have imposed penalty for delay in payment of tax prior to 30.11.2004.

3. After hearing both the sides and on perusal of the records, I find that the issue is already covered by the decisions of the Tribunal as under:-

(1) Amit Kumar Maheshwari Vs. CCE, Jaipur
2006 (2) S.T.R. 506 (Tribunal-Delhi)

(2) CCE, Bhopal Vs. Bharat Security Services & Worker's Cont. 2005 (188) ELT 454 (Tribunal-Delhi)

(3) CCE, Kanpur Vs. Anto Mal Jain
2006 (3) S.T.R. 651 (Tribunal-Delhi)

4. In the case of Bharat Security Services & Worker's Cont. (supra), the Tribunal held as under :-

> "5. The contention of the Revenue is that the Respondents are registered prior to the Extra Ordinary Tax Payers Friendly Scheme and not registered this immunity scheme. Therefore, are liable to penal action.

6. I find that the service provider, who registered and paid service tax during Extra Ordinary Tax Payer Friendly Scheme up to 30.10.2004, not liable to any penalty. Therefore, I find no infirmity in the findings of the Commissioner (Appeals) that the Respondents to pay service tax along with the interest prior to 30.10.2004 are also not liable for penalty. In view of these circumstances, I find no merit in the appeals. Therefore, all the appeals are dismissed."

5. In view of the above decision of the Tribunal, I do not find any merit in the appeal filed by the Revenue. Accordingly, the appeal filed by the Revenue is rejected.

Order dictated & pronounced in open court on 1.09.08.

(P.K. Das)
Member (Judicial)

Ckp.