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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/254 /2008 – SM[BR] Date 10/11/2008

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 VIJAY LAXMI, Respondent

I am directed to transmit herewith a certified copy of **Final order No. 1421 - 2008 SM[BR]** dated 11.9.2008

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 VIJAY LAXMI,

VILLAGE PARASI,P.O.KAKARI,DISTT. SONBHADRA (U.P.)

2. Adv. / Consult SHRI PRABHAT KUMAR ADV.
B-51 [BASMENT] SARVODAYAQ ENCLAVE
NEW DELHI -17

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 - 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), Thyagaraya 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-1
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.254 of 2008-SM (BR)

[Arising out of common Order-in-Appeal No.64-ST/ALLD/2007 dated 10.12.2007 of the Commissioner of Central Excise, Allahabad (U.P.)]

Date of Hearing/ Decision:11.09.2008

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 ...Appellant

[Rep. by Shri R.K. Verma, DR]

Vs.

M/s. Vijay Laxmi ...Respondents

[Rep. by Shri Prabhat Kumar, Advocate]

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

Final Order No.1421/08-SM(BR)/Dated:11.09.2008

Per P.K. Das :

After hearing both the sides and on perusal of the records, it is seen that the Respondent is engaged in providing services of a rent-a-cab operator. The Respondent provided rent-a-cab services to M/s. Northern Coal Fields during the financial year 2000-01 to 2003-2004 under a contract and there was no condition for payment of service tax. However, after receipt of the show cause notice, the Respondent deposited the tax of Rs.15,390/- along with interest of Rs.4,042/-. The Adjudicating Authority confirmed the demand of tax and appropriated the amount as deposited by them. He also imposed penalty of equal amount under Section 78 and penalty of Rs.5,000/- each under Section 75A and 77 of the Finance Act, 1994. The Commissioner (Appeals) set aside the penalties. Hence, the Revenue filed this appeal.

2. The main contention of the ld. DR is that ignorance of law cannot be reason for setting aside the penalties. He relied upon the decisions of the Tribunal.

3. On perusal of the order of the Commissioner (Appeals), it is seen that the Respondent rented the vehicle to M/s. Northern Coal Fields and they have not collected the service tax from M/s. Northern Coal Fields . It is noted that after receipt of the show cause notice, they have deposited the entire amount of interest. The Commissioner (Appeals) observed that the Respondent had no mala fide intention in making the late payment of Service Tax. He also observed that they were ignorant about the provisions of Service Tax and even the Company of the stature of M/s. Northern Coal Filed did not inform the Respondent about the levy of

Service Tax. It is noted that the Respondent is a lady entrepreneur acted in bona fide manner.

4. In view of that, Section 80 of the Finance Act, 1994 is rightly invoked by Commissioner (Appeals) in the present case. Accordingly, I do not find any reason to interfere the order of the Commissioner (Appeals). The appeal filed by the Revenue is rejected.

(Order dictated & pronounced in open court on 11.09.2008.)

(P.K. Das)
Member (Judicial)

Ckp.