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

Date 28/07/2008

Appeal No. ST/64 /2008-SM[BR]

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

To :
C.S.T. DELHI
17-B, I.P. ESTATE, IAEA HOUSE, NEW DELHI.

C.S.T. DELHI — Appellant

Vs

RAJ CONSULTANTS — Respondent

I am directed to transmit herewith a certified copy of **Final order No 1091 /2008 –SM[BR]**. dated 17.7.2008 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
   RAJ CONSULTANTS
   M/S RAJ CONSULTANTS
   6-A, AYODHYA ENCLAVE, SECTOR-13, ROHINI,
   NEW DELHI
2. Adv. / Consult MR .M.S. GARG ACCOUNTANT
   M/S RESPONDENT;------------
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. Office Copy
15. Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K Puram, New Delhi-110066

COURT-IV

Date of hearing: 17.7.2008

ST/Appeal No. **64/2008-SM(BR)**

(Arising out of Order –in-Appeal No. 46-/CE/ALLD/2006 dated 11.5.2006 passed by the Commissioner (Appeals) Central Excise, Allahabad, (U.P.)

For approval and signature:

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

---

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 should 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?

No

C.S.T., Delhi — Appellant/Applicant
(Rep. by Shri A.K. Rastogi, DR)

Vs.

M/s Raj Consultants — Respondent
(Rep. Mr. B.S. Garg, Accountant)

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

Final Order No. 1091/08-SM(BR)

Per: P.K. Das

Revenue filed this appeal against revised order passed by the Commissioner of Central Excise whereby Show Cause Notice issued for revision of Adjudication order was dropped.

2. After hearing both the sides and on perusal of records, it is seen that the Respondent is a proprietor ship concern and paid the tax before issue of show cause notice. The Adjudicating Authority imposed penalty of Rs. 1,000.00 each under Section 76 and 77 of the Finance Act 1944. A show cause notice dated 24.7.2007 was issued proposing revision of the Adjudication order which was dropped by the Commissioner. The relevant portion of the finding of the Commissioner is reproduced is below:

> "It is a matter on record that the assessee, a small proprietary concern was registered in 2003 and also that it was for the first time that there was delay in payment of Service Tax to the tune of Rs. 18,162./-. I Further find that the assessee on its own volition discharged the tax liability of Rs. 18,162/- and intimated the same to the Department through the impugned ST-3 returns. Further, it is observed that the earlier SCN No. 499/2005 dated 14.3.2005 was issued by the then Assistant Commissioner, Division-I for charging of interest under Section 75 of the Act ibid and not for the impugned Service Tax. Moreover,

the Deputy Commissioner vide the said OIO had imposed penalty of Rs. 1,000/- for such lapses under Section 76 of the Act ibid apart from penalty of Rs. 1000/- under Section 77 of the Act ibid. "

3. It is seen that the Commissioner of Central Excise after considering the facts and circumstance of the case in detail dropped the proceedings. I agree with the finding of the Commissioner of Central Excise. Accordingly, the appeal filed by the Revenue is rejected.

(Dictated and pronounced in the open court).

(P.K. Das)
Member (Judicial)

K. Gupta