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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

Date 22/08/2008

Appeal No. ST/336 /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

M/S BRILL EDUCATION (INDIA) PVT. LTD. — Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 1153 / 2008 –SM[BR] dated 16.7.2008 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
   M/S BRILL EDUCATION (INDIA) PVT. LTD.
   J-34, IST FLOOR, SOUTH EXTN-I,NEW DELHI-110049.
2. Adv. / Consult
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.336 of 2008-SM (BR)

[Arising out of common Order No.45/Service Tax/2008 dated 21.05.2008 passed by the Commissioner of Central Excise, Delhi]

Date of Hearing/ Decision:16.07.2008

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?
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

CCE, Delhi ...Appellants

[Rep. by Shri B.S. Suhag, DR]

Vs.

M/s. Brill Education (India) Pvt. Ltd. ...Respondent

[Rep. by Shri Chandra, M.D. of Company]

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

Final Order No. 1153/2008-SM(BR) Dated:16.07.2008

<u>Per P.K. Das</u>:

The relevant facts of the case, in brief, are that the Respondents are engaged in business/profession of commercial training and coaching centre. A show cause notice dated 12.10.2004 was issued proposing demand of tax for the period July, 2003 to September, 2003 of Rs.98,404/- and ~~peaty~~ penalty along with interest. The Respondent deposited the tax of Rs.50,000/- prior to issue of the show cause notice and also deposited the balance amount of Rs.48,404/- along with interest after issue of show cause notice. The Adjudicating Authority confirmed the demand of tax and appropriated the amount as deposited by the Respondent. He also imposed a penalty of Rs.50,000/- under Section 76 of Finance Act, 1994. The show cause notice dated 1.10.2007 was issued under Section 84 for reviewing the Adjudication Order. The Commissioner of Central Excise by the impugned order dropped the proceedings initiated under show cause notice dated 1.10.2007. Hence, the Revenue filed this appeal.

2. After hearing both the sides and on perusal of the records, it is seen from the impugned order that the Respondent declared the entire value of taxable service in their ST Returns. The Commissioner (Appeals) dropped the proceedings following the clarification issued by the Central Board of Customs & Excise vide Circular F.No.137/176/06-CX-4 dated 3.10.2007, whereby it has been clarified that once the due Service Tax in full alongwith interest accrued on delayed payment is voluntarily deposited by the tax payer/assessee before issuance of the show cause notice, the entire proceedings are deemed to have been concluded. In the present case, the Respondent deposited a sum of Rs.50,000/- before issue of show cause notice and also intimated the Department. The

Adjudicating Authority imposed penalty in respect of balance amount of tax of Rs.48,404/-. Therefore, I do not find any infirmity in the order of the Commissioner. Accordingly, the appeal filed by the Revenue is rejected.

Order dictated & pronounced in open court on 16.7.2008.

(P.K. Das)
Member (Judicial)

Ckp.