

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
CUSTOMS APPEAL BRANCH

Appeal No. ST/480 /2007 - CU[DB]

Date 12/01/2009

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

To :
M/S JRS TRTORIALS
B-36/54, UPENDRA NAGAR COLONY, VARANASI
M/S JRS TRTORIALS

C.C.E ALLAHABAD

Appellant

Vs
Respondent

I am directed to transmit herewith a certified copy of **Final order No. ST/02**

2009 CU[DB] dated 31.12.08

passed by the Tribunal under Section 129, (B) of the Customs Act, 1962 & Financial Act 1994 relating to Service Tax


Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent

C.C.E ALLAHABAD

38, M.G. MARG, CIVIL LINES, ALLAHABAD

2. Adv. / Consult : V. Lakshmikumaran, Adv

B-6/10 Safdarjung Enclave, New Delhi - 29

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 Publications (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 - 15

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Assistant Registrar
(Customs Appeal Branch)

**IN THE CUSTOMS, EXCISE & SERVICE
TAX APPELLATE TRIBUNAL,
WEST BLOCK NO. 2, R.K. PURAM,
NEW DELHI**

Service Tax APPEAL NO.480 of 2007-Customs Branch

[Arising out of common Order-in-Appeal No.19/ST/ALL/2007 dated 17.05.2007 passed by the Commissioner of Customs & Central Excise (Appeals), Allahabad]

For approval and signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical);

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 would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	N
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

M/s.JRS Tutorials

Appellants

(Rep. by Shri Ravi Raghavan, Advocate)

Vs.

CCE, Allahabad

Respondent

(Rep. by Shri S.L. Kumar, DR)

Coram:

Hon'ble Mr. M. Veeraiyan, Member (Technical);

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

Date of Hearing/decision: 31 December, 2008

FINAL ORDER NO. 57/2/09 **dated** _____

Per P.K. DAS:

Heard both sides and perused the records.

2. Ld. Advocate on behalf of the appellant submits that the demand of tax raised on the coaching services, which was introduced w.e.f. 1.7.2003. He submits that the demand of tax raised on the amount collected prior to 1.7.2003 and service rendered thereafter. He fairly submits that the issue has already been decided by the Tribunal in the case of CCE, Allahabad Vs. M/s. Krishna Coaching Institute – 2008-TIOL-2034-CESTAT-DELHI, wherein the demand of tax was confirmed, penalty was set aside and cum-tax benefit was extended.

3. On perusal of the records, we find that the Commissioner (Appeals) remanded this matter to the original authority for quantification of the tax amount.

4. In view of that, we direct the original authority to decide the matter in the light of the above decision of the Tribunal in the case of M/s. Krishna Coaching Institute (supra). The appeal is disposed of in the above terms.

Order dictated & pronounced in open court on 31.12.2008.

(M. Veeraiyan)
Member (Technical)

(P.K. Das)
Member (Judicial)

Ckp.

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
CUSTOMS APPEAL BRANCH

Appeal No. ST/104 /2007 - CU[DB]

Date 12/01/2009

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

To :
M/S AGARWAL COLOR LAB
SHOP NO.- A-10, NANDINI ROAD, POWER HOUSE
CHOWK, BHILAI (C.G.)
M/S AGARWAL COLOR LAB

C.C.E. RAIPUR

Appellant

Vs

Respondent

I am directed to transmit herewith a certified copy of **Final order No. ST/01**

2009 CU[DB] dated 19.12.08

passed by the Tribunal under Section 129, (B) of the Customs Act, 1962 & Financial Act 1994 relating to Service Tax


Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent

C.C.E. RAIPUR

CENTRAL EXCISE BUILDING, DHAMTARI ROAD, TIKARAPARA, RAIPUR
492001

2. Adv. / Consult

MR.K.K ANAND

A-5,BASEMENT,LAJPAT NAGAR-III NEW DELHI-24

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 Publications (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.)

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14 Easy Service Tax Online Dot Com Pvt.Ltd.407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad-15

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Assistant Registrar
(Customs Appeal Branch)

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL**
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. III
Service Tax Appeal No. 104 of 2007

[Arising out of the Order-in-Appeal No. Commissioner/RPR/ST/ 90/2006 dated 27/11/2006 passed by The Commissioner, Customs & Central Excise, Raipur.]

For Approval and signature :

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

Hon'ble Mr. Rakesh Kumar, Member (Technical)

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 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? :
4. Whether order is to be circulated to the Department Authorities? : NA

M/s Agarwal Color Lab

Appellant

Versus

CCE, Raipur

Respondent

Appearance

Shri Hemant Bajaj, Advocate – for the appellant.

Shri S.L. Kumar, Authorized Representative (DR) – for the Respondent.

CORAM: Hon'ble Shri P.K. Das, Member (Judicial)
Hon'ble Sh. Rakesh Kumar, Member (Technical)

DATE OF HEARING : 19/12/2008.

Final Order No. 57/1/09 Dated : _____

Per. P.K. Das :-

The appellant filed this appeal against the order of the Commissioner of Central Excise vide order No. Commissioner/RPR/ST/90/2006 dated 27th November 2006, whereby order dated 31st December 2004 passed by the Assistant Commissioner of Central Excise was revised and penalty was enhanced from Rs. 7,000.00 to @ Rs. 100.00 per day till the payment of tax under Section 76 of Finance Act, 1994.

2. Heard both the sides and perused the records.

3. The learned advocate submits that the appellants are

providing photography service. The issue relates as to whether the cost of photographic paper and chemicals would be included in the taxable value of photographic service. He further submits that the Assistant Commissioner of Central Excise vide order dated 31st December 2004 confirmed the demand of tax and imposed penalty of Rs. 7,000.00 under Section 76 of the Act. He also

submits that they have filed appeal before the Commissioner (Appeals) against the order of the Assistant Commissioner of Central Excise, which is still pending. In the meantime, Commissioner of Central Excise revised the Original order and enhanced the penalty. In this context, he submits that the Tribunal in the case of Deluxe Colour Lab Pvt. Ltd. vs. CCE, Jaipur vide final order No. ST/285-288 of 2008 dated 22nd October 2008 set aside the penalty on the identical situation. It is seen that the Tribunal in the case of M/s Jain Brothers and others vs. CCE, Bhopal vide final order No. ST/401-402 of 2008 dated 25th November 2008 following the decision of the Deluxe Colour Lab Pvt. Ltd. (Supra) set aside the imposition of penalty.

3. In view of that the impugned order of Commissioner to revise the order of adjudicating authority by enhancing the amount of penalty under Section 76 of Finance Act, 1994 is set aside. The appeal is allowed with consequential relief.

(Dictated and pronounced in open court)



(P.K. Das)
Member (Judicial)



(Rakesh Kumar)
Member (Technical)

PK