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

Appeal No. ST/91 /2007,93 /2007 - CU[DB]   Date 23/01/2009

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

To :
LIC OF INDIA
ZONE OFFICE, JEEVAN BHARTI BUILDING, 12,
CONNAUGHT CIRCUS, NEW DELHI
110001

LIC OF INDIA   Appellant
Vs
C.C.E. JAIPUR   Respondent

I am directed to transmit herewith a certified copy of **Final order No.** ST/45-46/09 **CU[DB]** dated 19.01.09 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. JAIPUR
   NCRB, STATUE CIRCLE, C-SCHEME, JAIPUR
2. Adv. / Consult
   MR.S.P.MITTAL, ADV
   354, LAWYER CHAMBERS, DELHI HIGH COUT, N.DLEHI.
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-15
15. Office Copy
16. Guard file

Assistant Registrar
(Customs Appeal Branch)

17. LIC OF INDIA
    ZONAL OFFICE, JEEVAN BHARTI BUILDING, 12 CONNAUGHT
    CIRCUS, NEW DELHI

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-III

Date of hearing/decision: 19.1.2009

Service Tax Appeal Nos.91 & 93 of 2007

Arising out of the order in appeal Nos.99-100 (GRM)/JPR/2006 dated 22.11.2006 passed by the Commissioner (Appeals I), Customs & Central Excise, Jaipur.

For Approval and Signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K. Das, Member (judicial)

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 27 of 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?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

Appellants | Respondent

Life Insurance Corporation of India vs. C.C.E., Jaipur

Appearance:

Shri S.P. Mittal, Advocate for the appellants
Shri Sunil Kumar, Authorized Departmental Representative (DR) for the Revenue

CORAM: Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K. Das, Member (Judicial)

Final. Order No. 57/45-46/09

Per P.K. Das:

The appellant filed these appeals against common Order in Appeal Nos. 99-100 (GRM)/JPR/2006 dated 22.11.2006 passed by Commissioner (Appeals), Jaipur in so far as the demand of service tax on club expenses and gratuity.

2. The issue involved in these appeals is as to whether the amount paid by the appellant to the club agents in the name of office expenses and telephone expenses reimbursed to their agents and payment of gratuity have to be included in the gross value of taxable service.

3. After hearing both sides and on perusal of the impugned order, we find that the Commissioner (Appeals) observed that the appellant has not submitted documentary evidence or otherwise evidence to show that the amount paid by them to their agents to reimburse the expenses incurred on account of travelling , boarding or lodging. Learned Advocate relied upon the Board Circular F.No.246/01/2002-CX-4 dated 9.2.2004. The relevant portion of the said Circular is reproduced below:

> ***"4. With regard to allowances and reimbursements paid to the agents, the position has been clarified in Board's Circular F.No.B-11-1/2001-TRU dated 9.7.2001 that out of pocket expenses which are reimbursable on actual basis such as travelling, boarding and lodging will not be subject to service tax providd all the conditions mentioned in the Circular are satisfied. Accordingly, your stand with regard to allowances and reimbursement paid to the agents is acceptable."***

4. Learned Advocate is not disputing that the appellant is required to submit evidences of the pocket expenses which are reimbursable on actual basis. He fairly submits that opportunity may be given to them to produce on record on this issue. In addition to that the learned Advocate submits that the adjudicating authority confirmed the demand of tax in respect of Appeal No.ST/153/07 related to payment of gratuity to the agents. He submits that the original authority did not consider that such payment was made under Welfare Scheme of LIC. He also submits that Commissioner (Appeals) had not given any finding on this issue.

5. We find that to meet the ends of justice ~~is~~ the appellants should be given an opportunity to produce evidence in terms of the Board's Circular. In view of that, we set aside the impugned order and the matter is remanded back to the adjudicating authority to consider the submission of the appellant with regard to payment of gratuity in accordance with law and to examine evidences in respect

of pocket expenses which are reimbursable on actual basis as stated in the Board Circular dated 9.2.2004.

6. All the appeals are allowed by way of remand.

(Dictated and pronounced in open Court)

(M. Veeraiyan)
Member (Technical)

(P.K. Das)
Member (Judicial)

scd/