

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

Appeal No. ST/417 /2007 - CU[DB]

Date 30/01/2009

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

To :
M/S M.P. WATER & LAND MANAGEMENT
INSTITUTE
WALMI HILLS, KALIASOTE DAM, KOLAR RD,
RAVISHANKAR NAGAR, BHOPAL
462016

M/S M.P. WATER & LAND MANAGEMENT
INSTITUTE

Appellant

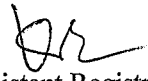
C.C.E BHOPAL

Vs
Respondent

I am directed to transmit herewith a certified copy of **Final order No. ST/57/09**

CU[DB] dated 05.01.09

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 BHOPAL

HOSHANGABAD ROAD, 48, ADMINISTRATIVE AREA, AREA HILLS, BHOPAL (M.P.) 462011

2. Adv. / Consult

MR.Z. U. ALVI

D-8,BDA COLONY, ADJACENT GARUDA TRAVELS. KOH-E-FIZA BHOPAL-01

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 Kuni, 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)

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

SERVICE TAX APPEAL NO. 417 OF 2007

[Arising out of Order-in-Appeal No. 17/ST/BPL/2007-08 dated 11.5.2007 passed by the Commissioner (Appeals), Customs & Central Excise, Bhopal]

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?	
3.	Whether their Lordships wish to see the fair copy of the order?	
4.	Whether order is to be circulated to the Departmental authorities?	

M/s. M.P. Water & Power Management Institute

Appellant

Vs.

CCE, Bhopal

Respondent

Appearance:

Shri Z.U. Alvi, Advocate for the appellant;
Shri Sumit Kumar, Departmental Representative, for the Revenue,

Coram:

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

Date of Hearing/decision: 5th January, 2009

FINAL ORDER NO. 57/57/09 dated _____

Per P.K. DAS:

Heard both sides and perused the records.

2. The relevant facts, in brief, are that the appellant is an institute constituted by the Government of Madhya Pradesh and registered under the Societies Registration Act. The appellant is undertaking activities of field studies, evaluation studies and collection of data under the project assigned by the Government agencies. Show cause notice dated 22.11.2005 was issued proposing demand of (i) Service Tax Rs. 7,67,216/-, educational cess Rs. 7,369/- on commercial training or coaching, (ii) Service Tax Rs. 84,650/- on scientific or technical consultancy and (iii) Service Tax Rs. 1278/-, educational Cess Rs. 10/- on technical testing and analysis. The original authority confirmed the demand of tax of and imposed penalties. The Commissioner (Appeals) set aside the demand of tax on commercial training or coaching ^{and penalty}. The appellants filed this appeal against the demand of tax and ~~penalties~~ against scientific or technical consultancy and technical testing and analysis.

3. Learned Advocate on behalf of the appellants contested the demand of tax on merit as well as on limitation. He submits that vide Board's letter F. No. B-II/I/2000-TRU dated 9.7.2001 it was clarified that many public funded institutes receive grants or aid from the Government for conducting research/project work and no service is rendered to

anyone. Hence, the question of payment of service tax does not arise. It is contended that the activities undertaken by the appellants are in the nature of research/project work. He also submits that the demand of tax is barred by limitation since by show cause notice dated 22.11.2005 tax was demanded for the period 1.7.2002 to May, 2004. He also submits that the Commissioner (Appeals) set aside the penalties as there is no suppression of facts with intent to evade payment of tax under Section 80 of the Finance Act, 1994.

4. The learned D.R. reiterates the findings of the Commissioner (Appeals).

5. After hearing both sides and on perusal of the records, we find force in the submissions of the learned Advocate on limitation. It is seen that the appellant is a registered society having no profit motive. They were undertaking the job to help the Government bodies. The Commissioner (Appeals) set aside the penalties imposed under Section 80 of the Act considering the facts and circumstances of the case. The demand of tax vide show cause notice dated 22.11.2005 for extended period cannot be sustainable.

6. In view of the above discussion, we set aside the demand of tax on scientific or technical consultancy and technical testing and analysis as barred by limitation. The appeal is allowed.

(M. VEERAIYAN)
MEMBER (TECHNICAL)

(P.K. DAS)
MEMBER (JUDICIAL)

RK