

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

Appeal No. ST/115 /2006 - CU[DB]

Date 30/01/2009

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

To :
M/S NOIDA TAXI SERVICE
C-599,SECTOR-19,NOIDA (UP)
M/S NOIDA TAXI SERVICE

C.C.E. NOIDA

Appellant

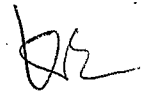
Vs

Respondent

I am directed to transmit herewith a certified copy of **Final order No. ST/60/09**

CU[DB] dated 22.01.09

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. NOIDA

B-123, SECTOR 5, NOIDA.

2. Adv. / Consult

MR.S.C. KAMRA & CO.

B-2/210(BASEMENT), SAFDARJUNG ENCLAVE, NEW DELHI- 110029

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

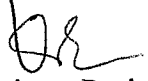
12 Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar,Chennai

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 AND SERVICE TAX APPELLATE
TRIBUNAL, NEW DELHI
PRINCIPAL BENCH NEW DELHI**

Service Tax Appeal No.115 of 2006 Customs Branch

[Arising out of Order-in-Appeal No.162/CE/APPL/NOIDA/06 dated 31.01.2006 passed by the Commissioner of Central Excise (Appeals), Customs & Central Excise, Noida)

Date of Hearing/ Decision:22.01.2009

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 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?

Noida Texi Service ...Appellant
[Rep. by Shri S.C. Kamra, Advocate & Shri G.K. Mahajan, Advocate]

Vs.

CCE, Noida ...Respondent
[Rep. by Shri A.K. Madan, SDR]

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

Final Order No. 57/60/09 /Dated: 22.01.2009

Per P.K. Das:

Heard both sides and perused the records.

2. Ld. Advocate submits that the tax was demanded under the category of rent-a-cab services. He submits that the appellants were

providing services only on demand and were charging per kilometer basis.

He, in this connection, draws our attention to the quotation issued by them. He fairly submits that these documents were not placed before the Adjudicating Authority and also before the Commissioner (Appeals). He relies upon the decision of the Tribunal in the case of M/s. R.S. Travels Vs. CCE, Meerut – 2008-TIOL-1311-CESTAT-DELHI.

3. Ld. DR reiterates the findings of the Commissioner (Appeals). He submits that paragraph 4 and 5 of the decision of the Tribunal in the case of M/s. R.S. Travels (supra), which is in favour of the Revenue.

4. After hearing both the sides, we find that the evidences placed by the Advocate were not placed before the Adjudicating Authority. To meet the ends of justice, we set aside the impugned order and the matter is remanded back to the Adjudicating Authority to decide and pass an order afresh after examining the evidences and the decision of the Tribunal in the case of M/s.R.S. Travels (Supra). The appellants are directed to produce the evidences before the Original Authority. Needless to say that the Original Authority would provide proper opportunity of hearing before decision. The appeal is allowed by way of remand.

Order dictated & pronounced in open court on 22.01.2009.

(M. Veeraiyan)
Member (Technical)

(P.K. Das)
Member (Judicial)

Ckp.