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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/118 & 476/2006 - CU[DB] Date 19/05/2009

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

To :
M/S WILD EXPEDITION TOURS & TRAVELS
F-4, TRIVENI COMPLEX, NAGPUR ROAD, MADAN
MAHAL, JABALPUR, M.P.

M/S WILD EXPEDITION TOURS & TRAVELS Appellant
Vs
THE COMMISSIONER OF CENTRAL EXCISE BHOPAL Respondent

I am directed to transmit herewith a certified copy of **Final order No.** ST/172-173 2009 CU[DB] dated 08.04.09

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
   THE COMMISSIONER OF CENTRAL EXCISE BHOPAL
   HOSHANGABAD ROAD, BHOPAL, MP
2. Adv. / Consult
   MR. BIPIN GARG, ADV
   B-1/1289V VASANT KUNJ NEW DELHI .
3. S.D.R
4. J.C.D.R.
5. Bar association, CESTAT, New Delhi
6. Director Publications, Customs, Excise. I.P. Estate, New Delhi
7. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
8. Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9. Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10. M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)
11. M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
12. Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
13. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
14. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
15. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
16. Office Copy
17. Guard file

Assistant Registrar
(Customs Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

ST/Appeal Nos. 118 & 476/2006-Cus(Br)

(Arising out of order in Appeal No. 197/CE/BPL/2005 dated 27.12.2005 and No. 79/ST/BL/2006 dated 3.8.2006 both passed by the Commissioner of Central Excise (Appeals), Bhopal)

M/s Wild Expedition Tours & Travels Appellant

Vs

CCE, Bhopal Respondent

Appeared for the Appellant : Shri Bipin Garg,
Shri Atul Gupta, Advocates

Appeared for the Respondent : Shri L.B. Yadav, SDR

Coram: Hon'ble Mr.D.N. Panda, Judicial Member
Hon'ble Mr. Rakesh Kumar, Technical Member

Date of Hearing: 8.4.09

Final Order No. 87/172-173 /2009

Per D.N. Panda:

Learned Counsel Shri Bipin Garg submits that the appellant was before the authorities below on various grounds. But the impugned order without considering entire submissions of appellant upheld levy of service tax holding the appellant prcvided service of 'Rent a Cab Operator service. He submits that use of the vehicles were by Government concerns and undertakings. The users were Indian Oil Corporation, Railways, Defence and Public Sector Undertakings. He submits that whether a particular service provided shall be 'rent a cab operator' or not, is no more in dispute in view of the decision of the Tribunal in the case of R.S. Travels, Vs CCE Meerut reported in 2008 (12) STR 27. Therefore, he prays that following the decision of the Tribunal and examining the agreements, if the authorities reach to a rational conclusion, the appellant may not be aggrived. However, he prays that if the Bench proposes to remand the matter, all legal issues may be kept open for the appellant to argue before the authorities.

2. The learned DR fairly agrees that the decision should be rational. He brings to our notice that the appellant have entered into agreements with the users. This is pleaded for the first time before the Tribunal. Therefore, it is only the adjudicating authority who can examine the matter in length on the basis of the Tribunal decision.

3. Heard both the sides and perused the record. We notice that both the sides are in agreement that a rational decision should be arrived at testing the material terms of condition of agreements with the law of the land. It would, therefore, be proper to remand back the matter to the learned adjudicating authority to re-examine the matter afresh on the touch stone of law and the decisions of the Tribunal. It would be open to the appellant to argue on all legal points before the learned adjudicating authority in view of the remand, we made by this order. We order

accordingly. It is needless to say that the authority below shall pass reasoned and speaking order following due process of justice.

(Order dictated and pronounced in the open Court).

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

MPS*