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

Appeal No. ST/469 /2008 – SM [BR] Date 18/03/2009

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

To :
C.C.E. MEERUT I

EXCISE CHOWK, UNIVERSITY ROAD, MANGAL
PANDEY NAGAR, MEERUT - 250005.

C.C.E. MEERUT I Appellant

Vs

M/S BANDHAN PALACE, Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 213 / 2009 –SM[BR] dated 13.3.2009

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

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent

M/S BANDHAN PALACE,

BY PASS, MODIPURAM,MEERUT (U.P.)

2. Adv. / Consult SHRI BIPIN GARG ADV.
B-1/1289-A, VASANT KUNJ NEW DELHI -70.

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-1
15 Office Copy
16 Guard file

Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH
NEW DELHI.

Service Tax Appeal No. 469 of 2008 -SM

[Arising out of order-in-appeal No. 73-CE/MRT-I/08 dated 28.3.2008 passed by Commissioner (Appeals) Central Excise, Meerut-I].

Date of Hearing/ Decision : 27.02.2009

CC E, Meerut-I — Appellant

Versus

M/s Bandhan Palace — Respondent

Appeared for Appellant - Mr. Sansar Chand, DR
Appeared for Respondent - Mr. Bipin Garg, Advocate

CORAM: Hon'ble Mr. D.N. Panda, Judicial Member

Final Order No. 213/09 -SM(BR)

Per D.N. Panda

Learned DR submits that this matter being related to valuation that should go to Division Bench. Perusal of the orders shows that the very material examined by the learned appellate authority below threw light that the order of Adjudication suffers from legal infirmity like non recording of declaration of the clients, summons were not issued to examine the client and declarations pertain to facts which was subsequently declared as to the fact that they have paid to the mandap keeper. In page 8, the learned Commissioner found that there was no corroborative evidence calling for raising of the demand. He also noticed that the very show cause notice was defective in view of adoption of inadmissible evidence ~~do~~ to form part of the proceedings. He has no doubt dealt the average fair value of taxable service in page 9. But he came to the conclusion that the kachhi parchi shall not be basis to compute the value of taxable service. In view of the finding of the learned Commissioner and in absence of any impeachable evidence coming today, the matter cannot be said to be a matter of valuation for the very basis of show cause notice being ill founded as observed by the learned Commissioner. Therefore, this matter can be taken up by Single Member.

2. Learned DR submits that the definition of mandap keeper was not tested by the learned Commissioner. But it may be stated that in absence of any cogent evidence finding made by the learned Appellate Authority, is not reversible erroneously. It is settled law that the finding of appellate authority below although is subject to scrutiny does not call for interference without evidence to contrary. Nothing perversity appears to have come to record

3. Learned Counsel appearing for the respondent supports the order passed by the learned Commissioner making objection to the submission of Revenue.

4. Heard both sides extensively and noticed the above observations emanated. Reiterating the view that, in the absence of evidence to disturb the order of the learned Commissioner (Appeals), Revenue's appeal has become fatal for which that is dismissed.

[Dictated and pronounced in the open Court]

[D.N. Panda]
Judicial Member

[Pant]