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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/323 /2007-326 /2007 - CU[DB] Date 10/08/2009
ST/M/318-321/09

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

To :
M/S CHANDELA TRAVELS
SHOP NO 6,DODAVARI COMPLEX,SECTOR-37,
NOIDA
M/S CHANDELA TRAVELS Appellant
Vs
C.C.E. NOIDA Respondent

I am directed to transmit herewith a certified copy of **Final order No. ST/244-247/ 2009 CU[DB]** dated 07.07.09

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

Alongwith Misc Order No ST/84/09

Assistant Registrar
(Customs Appeal Branch)

**Copy to :**
1. Respondent
C.C.E. NOIDA
C-56/42, SECTOR-62, NOIDA-201307
2. Adv. / Consult
MR.J.K.MITTAL &CO
A-15,THIRD FLOOR,PRIYADARSHINI VIHAR DELHI-110092
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)

18 M/S HANSRAJ CHANDELA,PARTNER
M/S CHANDELA TRAVELS,SHOP NO 6,GODAVARI
COMPLEX,SECTOR-37, NOIDA

PTO

19 M/S RAJBIR SINGH,PARTNER
M/S CHANDELA TRAVELS,SHOP NO 6,GODAVARI
COMPLEX,SECTOR-37, NOIDA

20 SHRI AJAB SINGH, PARTNER
M/S CHANDELA TRAVELS,SHOP NO 6,GODAVARI
COMPLEX,SECTOR-37, NOIDA

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PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
CUSTOMS APPEAL BRANCH

Appeal No. ST/323/2007-326/2007 - CU[DB] Date 10/08/2009
ST/M/318-321/09

Assistant Registrar
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18-8-09
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SIGN. (DESPATCH SECTION)
CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
NEW DELHI

Assistant Registrar
(Customs Appeal Branch)

18 M/S HANSRAJ CHANDELA,PARTNER
M/S CHANDELA TRAVELS,SHOP NO 6,GODAVARI
COMPLEX,SECTOR-37, NOIDA

pto

१ M/S RAJBIR SINGH,PARTNER
M/S CHANDELA TRAVELS,SHOP NO 6,GODAVARI
COMPLEX,SECTOR-37, NOIDA

२. SHRI AJAB SINGH, PARTNER
M/S CHANDELA TRAVELS,SHOP NO 6 GODAVARI
COMPLEX,SECTOR-37, NOIDA

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

ST/Misc 318/2009 and 542/09, ST/Appeal No.323/09-Cus(Br)
ST/Misc 319/09, ST/A No. 324/07
ST/ Misc 320/09, ST/Appeal No. 325/2007
ST Misc 321/2009, ST/Appeal No. 326/2007

(Arising out of order in appeal No.17,18,19 and 20/CEAppl/Noida dated 20.3.2007 passed by Commissioner (Appeals), Central Excise, Noida)

M/s Chandela Travels — Appellant

Vs

CCE, Noida — Respondent

Appeared for the Appellant : Shri J.K. Mittal, Advocate
Appeared for the Respondent : Shri Vijay Kumar, SDR

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

Date of Hearing: 7.7.09

Final Order No. ST/244-247/09 /2009
Misc Order No ST/84/08
ST/MA 318 to 321/2009

Application registered as MA 542/2009 in respect of ST Appeals registered as ST/Appeal Nos. 323/2007 to 326/2007

Per D.N. Panda:

These applications have been made for quashing of the de-novo order of adjudication passed by the learned Adjudicating Authority on 27.2.2009 which has emerged in consequence of remand of the matter by the learned Commissioner (Appeals) by his order dated 20th March, 2007 in Aapepal Oder No. 17,18,19,20/CE/Appl/Noida/2007 setting aside order in original dated 17.7.2006 against which appeal was filed by the appellants before him. The learned Appellate Authority on disposal of appeal remanded the matter to the learned adjudicating authority holding that finding of the learned authority with regard to liability to service tax was upheld and reconsideration should be made on the specific aspect dealt with by the appellate order and to re-calculate the service tax liability as well as quantum of penalty. When such an order was passed by the appellate authority below, his direction were carried out by a de-novo order dated 27.2.2009 passed by learned Adjudicating Authority.

2. The appellant prays by this Misc. Application that the adjudication order dated 27.2.2009 which arose as a consequence of appellate order dated 20th March, 2007 be quashed/set aside. There is nothing on record to show that the appellant had any order from a higher Court setting aside the appellate order dated 20.3.2007 passed by learned Commissioner (Appeals) or staying that order. In absence of such order, there is no remedy left to the appellant for consideration of the present Misc. Application at this stage. Therefore, that Misc application is rejected accordingly.

<u>ST/MA 542,</u>
<u>ST/Appeal No 323/2009 to 326/2009</u>

3. This common application is made in respect of appeal Nos. 323/09 to 326/09 praying for amending prayer of appeal Memo of those four appeals to the following effect:-

"a) set aside the order in appeal No. 17,18,19,20/-CE/Appl/Noida/07 dated 20.3.2007 passed by the learned Commissioner of Customs, Central Excise & Service Tax (Appeals), Coimbatore alongwith order in original No.6/Joint Commissioner /Noida/2006 dated 19.10.2006 passed by the learned Joint Commissioner (Adj) and grant full relief in the matter with consequential relief, if any;

b) pass such other order or orders as may be deemed fit and proper in the facts and circumstances of the cases."

4. Shri Mittal had also argued these matters yesterday submitting that the learned Appellate Authority has no power to remand and remand having been made, this appellant has been prejudiced by order passed on 27.2.2009 by the learned Adjudicating Authority. But soon after remand of the matter, learned Adjudicating Authority has completed a de-novo adjudication by order dated 27.2.2009. Appellant's prayer in the Misc Application would have received appreciation had the appellant challenged appellate order dated 20.3.2007 at the proper time before proper authority either to stay operation of the first appellate order or pass any other appropriate order. But that is not the case in the present appeal. Therefore, present Misc Application is rejected.

5. The appellant's prayer in this batch of appeals is that the adjudication order dated 20th June, 2006 be set aside on various grounds raised in the grounds of appeal. However, learned Counsel Shri Mittal very fairly states that soon after passing of the impugned order (Appellate order dated 20.3.2007), de-novo adjudication has already been done, present appeals have become infructuous.

6. Clear observations and noting of material facts has been made while disposing Misc. Application No. 318/09 to 321/09 today by a separate order. In view of rejection of that application, present appeals do not merit any consideration for which all these appeals have become infructuous.

(Order dictated and pronounced in the open Court).

(D.N. PANDA)
JUDICIAL MEMBER

MPS*

(RAKESH KUMAR)
TECHNICAL MEMBER