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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/739 /2008 – SM[BR] ST/ C.O./383/ 2008 –SM[BR]   Date 26/05/2009

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

To :
C.C.E. CHANDIGARH
C.R. BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH 160017
C.C.E. CHANDIGARH   Appellant

Vs

M/S CITY MOTORS.,   Respondent

I am directed to transmit herewith a certified copy of **Final order No**. 477 / 2009 –SM[BR] dated 24.4.2009 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 CITY MOTORS.,
AGGARSAIN CHOWK, SAMANA, DISTT. PATIALA (P.B)

2. Adv. / Consult SHRI JITENDRA MOHAN CONSTLT;
H.NO.4A, STREET NO.2,GHUMAN NAGAR
SIRHIND ROAD PATIALA

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
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI, PRINCIPAL BENCH NEW DELHI

Service Tax Appeal No.ST/739 of 2008-SM (BR) with ST/C.O./383 of 2008-SM (BR)

[Arising out of common Order-in-Appeal No.419/CE/CHDd/2008 dated 08.08.2008 passed by the Commissioner of Central Excise (Appeals), Chandigarh]

Date of Hearing/ Decision:24.04.2009

For approval and signature:

Hon'ble Mr. P.K. Das, Member (Judicial)

3. 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? :

No

4. Whether Order is to be circulated to the Departmental authorities? : yes

CCE, Chandigarh ....Appellants

[Rep. by Shri R.K. Verma, DR]

Vs.

M/s. City Motors, Aggarwain Chowk, Samana ...Respondent

[Rep. by Shri Jitendra, Mohan, Consultant]

CORAM: **Hon'ble Mr. P.K. Das, Member (Judicial)**

Final Order No. 477/09 SM (BR)/Dated:24.04.2009

Per P.K. Das:

Revenue filed this appeal against the Order of the Commissioner (Appeals), whereby penalty under Section 76 of the Finance Act, 1994 was set aside.

2. The relevant facts of the case, in brief, are that the respondent was registered with Service Tax Department under the category of

"Authorised Service Station". They were also arranging loans to individuals as Direct Marketing Agent of ICICI Bank. They paid service tax partly on the commission received by them for arranging loan on 21.02.2007 for the period 1.7.2003 to 31.12.2006. Show cause notice dated 14.08.2007 was issued proposing to demand of tax and to appropriate the amount as deposited by them and to impose penalty. The Original Authority confirmed demand of tax of Rs.78,979.00 and appropriated the amount of Rs.22,955/- and imposed penalty of equal amount of tax under Section 76 and 78 of the Act separately and Rs.1,000/- under Section 77 of the Act. Commissioner (Appeals) reduced the penalty under Section 78 of the Act from Rs.56,024/- to Rs.15,441/- and set aside penalty under Section 76.

3. After hearing both the sides, I find that Revenue has not disputed against the reduction of penalty under Section 78 of the Act. It is seen that there was confusion of levy of tax on Authorised Service Station receiving commission from financial institutions for arranging loan. The respondent are not disputing demand of tax.

4. I find that imposition of penalty under Section 78 of the Act is sufficient to meet the ends of justice. Hence, I do not find any reason to interfere the order of the Commissioner (Appeals). Accordingly, the appeal filed by the Revenue is rejected. Cross objection is disposed of.

Order dictated & pronounced in open court on 24.04.2009.

(P.K. Das)
Member (Judicial)

Ckp.