

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/44 /2009 – SM[BR]

Date 29/05/2009

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

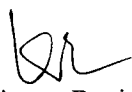
To :
C.C.E. JALLANDHAR(HQ. AT CHANDIGARH)
C.R.BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH.
C.C.E. JALLANDHAR(HQ. AT CHANDIGARH)

Appellant

Vs
Respondent

M/S MANDEEP ELECTRICAL TELCOM & FOREIGN
EXCHANGE,

I am directed to transmit herewith a certified copy of **Final order No. 493 / 2009 –SM[BR]** dated 15.5.2009
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 MANDEEP ELECTRICAL TELCOM & FOREIGN EXCHANGE,
OPP. PNB, LAMBRA, JALANDHAR.

2. Adv. / Consult

NONE;-----

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 Publications 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 Kuni, 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 (Harvana)

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.44 of 2009 –SM (BR)

[Arising out of common Order-in-Appeal No.757/CE/App1/Jal/2008 dated 14.11.2008 passed by the Commissioner of Central Excise (Appeals), Chandigarh]

Date of Hearing:15.05.2009

Date of Decision:15.05.2009

For approval and signature:

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?
-

:)
:)
:)
: ytd

CCE, Jalandhar

....Appellants

[Rep. by Shri S.K. Bhaskar, DR]

Vs.

M/s. Mandeep Electrical Telecom and
Foreign Exchange

...Respondent

[Rep. by None.]

CORAM: **Mr. P.K. Das, Member (Judicial)** (P.K.)
Final Order No. 44 of 2009 Dated: 15.05.2009

Per P.K. Das:

Heard the ld. DR on behalf of the Revenue. None appears on behalf of the respondent despite issue of notice.

2. Ld. DR submits that the Hon'ble Kerala High Court in the case of Asstt. Commissioner of Central Excise Vs. Krishna Poduval reported in 2006 (1) S.T.R. 185 (Kerala) held that Section 77 and 78 of the Act are distinct and separate under two provisions and even if offences are committed in course of same transaction or arise out of same act, penalty imposable for ingredients of both offences. Commissioner (Appeals) set aside penalty under Section 76 of Finance Act, 1994 as penalty under Section 78 of the Act was imposed.

3. In view of the above decision of the Hon'ble High Court, the impugned order is set aside and the matter is remanded back to the Commissioner (Appeals) to decide afresh after considering the facts and circumstances of the case and the case laws on this issue. The appeal filed by the Revenue is allowed by way of remand.

[Order pronounced in open court on 15.05.2009.]

(P.K. Das)
Member (Judicial)

Ckp.