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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/384 /2009 – SM[BR] Date 17/09/2009

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

To :
M/S S.V.BAJPAI(ALIAS RAJU BAJPAI)
PROP OF M/S R.R. ENTERPRISES, 90-A/6K,
BAGHAMBARI GADDI, ALLAHABAD.
M/S S.V.BAJPAI(ALIAS RAJU BAJPAI) Appellant
Vs
C.C.E ALLAHABAD Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1143 / 2009 –SM[BR] dated 1.9.2009

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
C.C.E ALLAHABAD
38,M.G.MARG, CIVIL LINES, ALLAHABAD
2. Adv. / Consult
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R-163, SECOND FLOOR, GREATER KAILASH-1, NEW DELHI - 110 048.
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.384 of 2009-SM (BR)

[Arising out of Order-in-Revision No.59 of 2008 dated 3.9.2008 passed by the Commissioner of Service Tax and Central Excise, Allahabad]

Date of Hearing/ Decision:1.9.2009

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? : Yes.

No.

Shri S.V. Bajpai, Proprietor of M/s.R.R. Enterprises ...Appellant

(Rep. by Shri Abhishekh Jaju, Advocate)

Vs.

CCE, Allahabad ....Respondents

(Rep. by Shri S. Gautam, SDR)

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

Final Order No.1148/2009-SM (BR)/Dated:1.9.2009

Per P.K. Das:

After hearing both the sides and on perusal of the records, I find that the appellant challenged the order of the Commissioner passed under Section 84 of Finance Act, 1994.

2. The ld. Advocate submits that the Commissioner (Appeals) vide Order-in-Appeal dated 19.02.2007 upheld the adjudication order on their

appeal. Thereafter, show cause notice under Section 84 of the Finance Act, 1994 was issued on 7.6.08 and the revision order was passed on 3.9.2008. The contention of the ld. Advocate is that the order of the Original Authority, which has been revised, is no longer existed after the order of the Commissioner (Appeals). He relied upon the decision of the Tribunal in the case of Jindal & Power Ltd. Vs. CCE, Raipur reported in 2008 (10) STR 270 (Tribunal-Delhi). He also relied upon the decision of the Rajasthan High Court in the case of Union of India Vs. Inani Carriers reported in 2009 (13) S.T.R. 230 (Rajasthan). The other submission of the ld. Advocate is that the revision order was passed without giving proper opportunity of hearing.

3. I find that the Revision Order was passed without giving reasonable opportunity of hearing in violation of the principles of natural justice. In view of that, the impugned order of the Commissioner is set aside. The matter is remanded to the Commissioner to decide afresh after giving reasonable opportunity of hearing to the appellants. All the issues are left open. The appeal is allowed by way of remand.

Order dictated & pronounced in open court on 1.9.2009.

(P.K. Das)
Member (Judicial)

Ckp.