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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/541 /2006 - CU[DB] Date 12/03/2010

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

To :
PAWAN SHARMA PROPRIETOR
M/S BHAGWATI ADVERTISING COMPANY, B-90,
R.K.PURAM, KOTA - 324009 (RAJ.)
PAWAN SHARMA PROPRIETOR Appellant

Vs

C.C.E.JAIPUR Respondent

I am directed to transmit herewith a certified copy of **Final order No.** ST/5/ **2010 CU[DB]** dated 25.02.10 passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
   C.C.E.JAIPUR
   NCRB, STATUE CIRLCLE, C-SCHEME, JAIPUR.
2. Adv. / Consult
   MR.S.B.KHANDELWAL
   H.NO. 2-E-26, MAHAVEER NAGAR EXT., KOTA - 324009 (RAJ)
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)

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

ST/A No.541 /2006

(Arising out of order in appeal No.68/GRM/CE/JPR.I/06 dated 31.8.06 passed by the Commissioner of Central Excise (Appeals), Jaipur)

Shri Pawan Sharma Appellant

Vs

CCE, Jaipur Respondent

Appeared for the Appellant : None
Appeared for the Respondent : Shri Sunil Kumar, DR

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

Date of Hearing: 25.2.2010

Final Order No. ST/5/10 /2010

Per D.N. Panda:

Although this matter is coming up repeatedly on the board for so many days and restoration was allowed earlier on 7.8.09 for grant of fair opportunity of hearing to the appellant, notices have been returned back without being served. The evidence of return of the notices are also available on record. On 26.10.09 when the matter came up for failure of assessee to respond to the notice, another opportunity was granted on that date for appearance. Although the notice has gone on 4.2.2010 fixing the matter today, there is no presence caused. Therefore, on the basis of material on record, we proceed for hearing.

2. Learned DR Sri Sunil Kumar submits that in the show cause notice, the nature of activity carried on was shown drawing the attention of the appellant that such activity amounts to taxable service under the category of Advertising Agency. It was made clear that once liability arises, service tax shall be payable alongwith application to get the assessee registered. Consequence of that was depicted clearly in the show cause notice. The authorities below have examined the issue and learned Appellate Authority has also occasion to find default of the assessee in terms of order dated 31.8.2006. That authority having considered the appellants leniently even allowing the modification application for the said order passed on 27.7.06, that did not serve any useful purpose in absence of appellant for proper presentation of this case. He decided the issue in para 4 of the appellate order and decided the matter against assessee. Keeping the matter pending is to make abuse of the process of law.

3. Heard DR thoroughly and various points raised by Revenue has substance when we examine from the show cause notice stage itself. Nowhere we are able to appreciate that the nature of activity carried out by appellants receiving Rs. 15,21,132/- was contributing to his poverty which received consideration of the learned Appellate Authority. The activity that was carried out by the appellant does not relieve the appellant from the liability. These observations are enough to dismiss the appeal of the appellant on all accounts including the default of the appellant

abusing the process of law. Accordingly, the appeal is dismissed.

(order dictated in the open Court.)

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

MPS*