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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/849 /2011 – SM[BR]ST/STAY / 1800 /2011-SM[BR] **Date 18/10/2011**

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

To :
M/S JINDAL SAW LTD. (PIPES DIVISION),
UPSIDC INDUSTRIAL AREA, NANDGAON ROAD,
KOSI KALAN, DISTT. MATHURA. (U.P.)

M/S JINDAL SAW LTD. (PIPES DIVISION), Appellant
Vs
C.C.E. LUCKNOW Respondent

I am directed to transmit herewith a certified copy of **Final order No.703/2011-SM[BR]&S/617/2011** dated 14.9.2011 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. LUCKNOW
7-A, ASHOK MARG, LUCKNOW.

2. Adv. / Consult SHRI R.SANTHANAM ADV.
C-3/210,JANAKAPURI NEW DELHI-58.

3. C.D.R
4. Bar association. CESTAT. New Delhi
5. Director Publications. Customs. Excise. I.P. Estate. New
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. Taxmann Allied Service Pvt Ltd., 59/32. New Rohtak Road. New Delhi -
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Harvana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copv
13. Guard file

Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
BENCH-SM

Service Tax Stay Appn. No.ST/1800/2011-SM in Service Tax Appeal No.ST/849/11-SM

[Arising out of Order-in-Appeal No.96-ST/LKO/2011 dated 28.03.2011 passed by the Commissioner (Appeals), Lucknow].

M/s. Jindal Saw Ltd. ...Appellant

Vs.

CCE, Lucknow ... Respondent

Present for the Appellant : Shri R. Santhamam, Advocate
Present for the Respondent:Shri.S.K.Panda, J.C.D.R.

Coram: HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER

Date of Hearing/Decision:14.09.2011

Final **ORDER NO.** 703/2011 SM (BR) & **DATED:**
S-1617/2011 SM (BR)

PER: D.N.PANDA

This is a very peculiar case where cenvat credit claim of Rs.6,16,799/- was in dispute in respect of service tax paid on various counts as is enumerated in para 4 of the adjudication order. When Revenue came in appeal against relief granted to the assessee by adjudicating authority, the appellate authority has failed to discharge his duty to scrutinise the claim when he found that Revenue was aggrieved. Mere passing on responsibility to the subordinates shall not serve any purpose of law under the shelter of remand of the matter. It is expected that senior and matured officers of the department occupying the position of appellate authority should decide the matter in controversy before him when they enjoy the coextensive and co-terminus power under law. Present case did not warrant remand of the matter, since the appellant came forward to provide the details as is evident from page 2 of the appellate order itself when the appellate authority noticed that there is no reference to registration and type of vehicle used. He had power ~~him~~ to call for information when he is Central Excise Officer as defined by section 2.~~b~~ (b) of the Central Excise Act, 1944 and also an authority under Finance Act 1994. While he was an appellate authority he has been vested with the power of original authority itself. In such circumstances merely remanding the matter for statistical disposal of the appeal shall shake the confidence of litigants and they shall be made to run from door to door for justice.

In such circumstances waiving requirement of pre-deposit the appeal is remanded back to the ld. Appellate authority who shall hear the matter afresh calling for all details and also consulting the adjudication record and test the pleadings of the appellant on the basis of law to pass a reasoned and speaking order.

2. In the result, the stay application is disposed and appeal is also disposed by way of remand.

3. Shri Santanam has not filed Vakalatnama and he undertakes to file the same in the course of the day. Registry is required to check the same. Appearance of Shri Santanam has been taken into record being a Counsel known to Tribunal following Rule 14 of CESTAT Procedure Rules, 1982.

[Dictated & Pronounced in the open Court].

(D.N.PANDA)
JUDICIAL MEMBER

Anita