

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/1702/2010 – SM[BR] ST / STAY /3645/2010-SM[BR]

Date 18/10/2011

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

To :
M/S D.S. TALWAR & CO.
S-58, GREATER KAILASH-II, NEW DELHI.
110048
M/S D.S. TALWAR & CO.

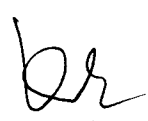
Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. 705/2011-SM[BR]&S/618/2011 dated 26.9.2011 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. DELHI II
C.R. BUILDING, I.P. ESTATE, NEW
DELHI 110002
2. Adv. / Consult MS. SHARDA TALWAR
M/S RESPONDENT:-----
3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New
6. M/s Centax Publications 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. LA WCRUX 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 Copy
13. Guard file


Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
DIVISION BENCH

ST/Stay/3645/10 in Appeal No.ST/1702/10

(Arising out of Order-in-Appeal No.588/S.Tax/D-II/10 dt.13.10.10
passed by the CCE(A), New Delhi)

Date of Hearing/Decision: 26.09.2011

For approval and signature:

Hon'ble Mrs.Archana Wadhwa, Member (Judicial)

1	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
3	Whether Their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

M/s.D.S.Talwar & Co.

Appellant

Vs.

CST, Delhi-II

Respondent

Present for the Appellant: Ms. Sharda Talwar, Representative

Present for the Respondent: Shri S.K.Bhaskar, SDR

Coram: Hon'ble Mrs.Archana Wadhwa, Member (Judicial)

final ORDER NO. 705/2011 SM (Br) d
PER: ARCHANA WADHWA S- 6/8/2011 SM (Br)

After dispensing with the conditions of pre-deposit of service tax of Rs.5,055/- and identical amount of penalty imposed upon the applicant, I proceed to decide the appeal itself, inasmuch as ^a ~~the~~ short issue is involved.

2. It is seen that the appellants are registered as chartered accountants and are paying service tax on the services rendered by them. The dispute in the present appeal relates to the period April, 2003 to September, 2003, ^{ed} ~~The~~ appellants have discharging ^{stand} ~~ing~~ duty liability at the rate of 5% whereas the rate of service tax ^{stand} ~~increased~~ from 5% to 8% with effect from 14.5.2003. As per the appellants, the bills for the service so rendered by them were raised prior to 14.04.2003 though realization made after increase of rate of service tax. The Commissioner (Appeals) in his impugned order has observed that the appellants have failed to substantiate their above plea by producing any invoice or contract or other evidence. It is the contention of the representative of the appellant that they had taken bills book at the time of hearing before the Commissioner (Appeals) ^{but} he has not looked into the same.

3. Inasmuch as the dispute revolves around the factual position which needs verification by the lower authorities, I set aside the impugned order and remand the matter to the original adjudicating authority to examine the appellants' claim. The stay petition and appeal get disposed of in the above terms.

(Pronounced in the open court)

(ARCHANA WADHWA)
MEMBER (JUDICIAL)

mk