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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/531 /2010 – SM[BR] ST / STAY / 900 / 2010-SM[BR] Date 29/06/2010

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

To :
M/S. VIKAS ENTERPRISES
CONTRACTOR COLONY, RIHAND NAGAR,
SONEBHADRA (UP)

M/S. VIKAS ENTERPRISES Appellant

Vs

C.C.E ALLAHABAD Respondent

I am directed to transmit herewith a certified copy of **Final order** No. 624 / 2010 –SM[BR] & S/222 /2010 dated 15.6.2010 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
   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 Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
8. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9. M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
10. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005
11. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
12. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
13. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No. 2, R.K. Puram,
NEW DELHI

COURT No. II

ST/Stay/900/2010-SM in Service
Tax appeal No. 531 of 2010-SM

[Arising out of Order-in-Appeal No. 97/ST/APPL/ALLD/2009 dated 24.12.2009 passed by the Commissioner (Appeals), Central Excise, Allahabad]

M/s. Vikas Enterprises | Appellant
None

Versus

CCE, Allahabad | Respondent
Reptd. By Shri I. Baig, D.R.

Date of Hearing/decision: 14th June, 2010

Coram: Hon'ble Shri D.N. Panda, Member (Judicial);

Final **ORAL ORDER** 634/2010-SM(BR) &
Stay ORDER 332/2010 - SM(BR)

Per D.N. PANDA:

The appellant is absent today.

2. Heard learned SDR. It is found that there is an amount of service tax demand of Rs. 38,250/-. The reason why such demand arose is not categorically coming out from either of the orders of the lower authorities. But the fate of the case was decided by both the authorities below giving rise to this appeal. In view of the above position it is impracticable to approve a cryptic order which does not bring out the reason why the appellant faced demand. An unreasoned and non-speaking order of demand fails

to meet scrutiny of higher forum. When the fate of the case is as above, it is necessary to sent back the entire matter to the learned Adjudicating authority to test the material thoroughly granting fair opportunity of hearing to the appellant to defend its case. Clearly bringing on record the material facts, that should be tested under provision of law, by a speaking order. It would be proper to refer to the decision of the Apex Court in the case of Jt. Commissioner of Income Tax, Surat vs. Saheli Leasing & Industries Ltd., reported
and in the case reported in 2010(254) ELT 6 (SC),
in 2010 (253) ELT 705 (S.C.) by the learned adjudicating authority to do justice to the small assessee by a speaking order who is ignorant of the provisions of law.

3. In view of the aforesaid observations and the law laid down by Apex Court in the aforesaid case, the stay application is disposed of dispensing with pre-deposit and the appeal is remanded to the learned adjudicating authority for disposing the matter afresh in accordance with law.

(D.N. PANDA)
JUDICIAL MEMBER

RK