

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/912 /2010 – SM[BR] & ST / STAY /1805 / 2010-SM[BR]

Date 03/09/2010

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

To :
M/S S.KUMAR & ASSOCIATES,
62, DAYANAND MARG, DARYAGANJ, NEW DELHI-
110002.

M/S S.KUMAR & ASSOCIATES,

C.S.T. DELHI

Appellant
Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No.943/2010-SM[BR]&S/371 /2010 dated 27.8.2010 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.S.T. DELHI

17-B, I.P. ESTATE, IAEA HOUSE, NEW DELHI.

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 Publications 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 (Harvana)

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-II

Date of hearing/decision: **27.8.2010**

Service Tax Stay No. 1805 of 2010-SM and Service Tax Appeal No. 912 of 2010-SM

[Arising out of order-in-Appeal No. 43/ST/DLH/2010 dated 31.3.2010 passed by the Commissioner (Appeals), Central Excise, Delhi-I]

For approval and signature:

Hon'ble Mr. Ashok Jindal, 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.	
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?	

S. Kumar & Associates

Appellant

Vs.

CST, New Delhi

Respondent

Appearance:

Appeared for the Appellant - None

Appeared for the Respondent - Shri Anil Khanna, DR

Coram:

Hon'ble Mr. Ashok Jindal, Member (Judicial)

final Order No. 943/2010 SM(Br)4
S-371/2010 SM(Br)

Per Ashok Jindal :

The appellant has filed this appeal along with the stay application. Today the matter is listed for disposal of stay

application. As the Service Tax has already been paid by the appellant, waiver of penalty is granted and the appeal is also taken up for final disposal as the issue involved is in narrow compass.

2. The Commissioner (Appeals) in the impugned order has discussed that the appellant has produced the challan of payment of Service Tax but he rejected the claim of the appellant on the ground that these documents were not produced before the adjudicating authority. This is not the proper way of the functioning of the Commissioner (Appeals), he has to pass the order on merit after examining the documents produced by the appellant in their claim. Accordingly, the matter needs re-examination on merit by the Commissioner (Appeals). Hence, the impugned order is set aside and the matter is remanded back to the Commissioner (Appeals) to examine the claim of the appellant and pass an appropriate order on merits after giving a reasonable opportunity to the appellant to present their case. With these observations, appeal as well as the stay application is disposed.

(Dictated & pronounced in open Court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

RM