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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/911 /2010 – SM[BR] &ST/STAY /1804/2010-SM[BR] Date 09/09/2010

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

To :
M/S A-ONE SERVICES,

62, DAYANAND MARG, DARYAGANJ, NEW DELHI-
110002.

M/S A-ONE SERVICES, Appellant

Vs

C.S.T. DELHI Respondent

I am directed to transmit herewith a certified copy of **Final order No**.980/2010-SM[BR]&S/420/2010 dated 30.8.2010 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 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-II

Date of hearing/decision: **27.8.2010**

Service Tax Stay No. 1804 of 2010-SM & Service Tax Appeal No. 911 of 2010-SM

(Arising out of Order-in-Appeal No. 44/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?	

M/s A-One Services — 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. 980/2010 SM(Br) & S-420/2010 SM (Br)

Per Ashok Jindal :

The appellants have filed this appeal along with stay application. As the Appellant has already paid the Service Tax, waiver of predeposit of interest and penalty is granted. As the issue is in narrow compass, the matter is also taken up for final disposal. None appeared on behalf of the appellant nor any request for adjournment has been received but the matter has taken up for disposal on merit.

2. In the impugned order, the Commissioner (Appeals) had given the finding that the appellant has not produced documents to verify their claim before the adjudicating authority. Hence, he also did not verify the documents produced by the appellant before him with regard to their claim and rejected the appeal. In fact, Commissioner (Appeals) has to verify the claim made by the appellant and had to pass the order on merits which he failed to do so. Accordingly, this matter needs remand to verify the documents to substantiate the claim of the appellant. Accordingly, the matter is sent back to the original adjudicating authority to verify the proof of payment made by the appellant or their adjustments made by them in their service tax returns, after giving a reasonable opportunity to the appellants to produce the documents. The impugned order is set aside and appeal is allowed by way of remand. Stay application is also disposed of in the above terms.

(Dictated & pronounced in open Court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

RM