

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/394 - 395 / 2010 -SM[BR]

Date 17/08/2010

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

To :

1. MS. SEEMA JAIN,
2. SHRI SURESH KUMAR JAIN
11/2A, PUSA ROAD,
NEW DELHI-110005
- MS. SEEMA JAIN,

Appellant

Vs

Respondent

C.S.T. DELHI

I am directed to transmit herewith a certified copy of **Final order No. 881 - 881-A /2010-SM[BR]** dated 9.8.2010 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

MR.PREM RANJAN KUMAR,ADV

LGF 6/33,VIKRAM VIHAR, LAJPAT NAGAR PART-IV, N DELHI-24

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

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Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

COURT NO. II

Service Tax Appeal No. 394 of 2010-SM and 395 of 2010-SM

(Arising out of Order-in-Appeal No. 06-07/ST/DLH/2010 dated 25.1.2010 passed by Commissioner, Central Excise (Appeals), New Delhi)

Seema Jain
Sh. Suresh Kumar Jain

Appellant

Vs.

CST, Delhi

Respondent

Appearance :

Appeared for Appellant : Shri Prem Ranjan Kumar, Advocate
Appeared for Respondent: Shri S.R. Meena, DR

Date of Hearing: 5.8.2010

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

final Order No. 881/2010 SM (Br) & 881-A/2010 SM (Br) dated.....

Per D.N. Panda:

Ld. Counsel Shri Prem Ranjan submits in both the cases that necessary evidence is available and Id. First Appellate Authority can be guided by the evidence available with the Appellants. If the matter goes back with any time frame, the Appellant shall not fail to appear on the respective date and place evidence.

2. Ld. DR Shri Meena supports the order of the Appellate Authority below.

3. Heard both sides and perused the record.

4. A bare perusal of the Appellate order shows ^{no} proper opportunity ^{granted to the Appellant.} to Appellate Authority himself has recorded that the Appellant was denied of opportunity of hearing. Once such a denial is apparent from the record, it may be appreciated that violation of natural justice is an incurable defect. This calls for sending the matter back again to the Id. Adjudicating Authority himself because grave injury ^{done by} the violation of natural justice cannot be even cured ^{at} the Appellate stage. Therefore the appellant is directed to appear before the Id. Adjudicating Authority on **24th September 2010** and file an application for fixation of date of hearing. On the date fixed, the Appellant shall adduce evidence and lead its pleading, if any, for their defence. Id. Adjudicating Authority is expected to pass a reasoned and speaking order granting fair opportunity of hearing within three months of conclusion of hearing. In the result, both the orders are set aside remanding the matter back to the Id. Adjudicating Authority.

(Dictated & pronounced in open Court)

(D.N. PANDA)
JUDICIAL MEMBER

RM