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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066

CUSTOMS APPEAL BRANCH

Appeal No. ST/260 /2007 - CU[DB] Date **06/05/2011**

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

To :
M/S MADHYA PRADESH CONSULTANCY
ORGANISATION LTD.
PARYAWAS BHAWAN, 2ND BLOCK,3RD FLOOR,
AREARA HILLS, BHOPAL
462011

M/S MADHYA PRADESH CONSULTANCY ORGANISATION LTD. Appellant

Vs

C.C.E BHOPAL Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/172/ 2011 CU[DB]** dated 29.04.11 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
C.C.E BHOPAL
HOSHANGABAD ROAD, 48,
ADMINISTRATIVE AREA, AREA
HILLS, BHOPAL (M.P.) 462011

2. Adv. / Consult
MR.N.K.BAJPAI
C/o Appellant

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New Delhi
6. M/s Centax Publictions 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 - 110005
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
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
(Customs Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
DIVISION BENCH
Service Tax Appeal No.260 of 2007

(Arising out of Order-in-Original No.01/Commr/ST/2007 dated 14.03.07 passed by the CCE, Bhopal)

For approval and signature:
Hon'ble Mrs.Archana Wadhawa, Member (Judicial)
Hon'ble Mr.M.Veeraiyan Member (Technical)

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?	No

M/s.Madhya Pradesh Consultancy Organization Ltd. — Appellant

Vs.

CCE, Bhopal — Respondent

Present for the Appellant: Shri L.P.Asthana, Advocate
Present for the Respondent: Shri Amrish Jain, SDR

Coram:Hon'ble Mrs.Archana Wadhawa, Member(Judicial)
Hon'ble Mr.M.Veeraiyan, Member (Technical)

Date of Hearing/Decision: 21.04.2011

Final **ORDER NO.** ST/172/11

PER: M.VEERAIYAN

This is an appeal against the order of the Commissioner No01/Commr/ST/2007 dated 14.03.07 by which demand of service tax amounting to 82,25,013/- alongwith interest stands confirmed and penalty under section 76, 77 and 78 of the Finance Act, 1994 stands imposed.

2. Heard both sides.

3. The relevant facts in brief are that the appellants is a company registered under the company act having been promoted by national level financial institutions such as IFCI, IDBI and ICICI and such other nationalised banks. The appellants are engaged in providing consultancy services to the private sector on which they were paying service tax; they also carry on various research and development projects and other training programme acting as nodal agency on behalf of different Ministries of Central Government. Commissioner, in pursuance of show cause notice issued held that the appellants have rendered taxable service by organizing work shop or seminar for the clients and therefore confirmed the demand of service tax and imposed penalty as mentioned above.

4.1 Learned advocated for the appellant submits that the demand of service tax has been made on amounts received as grant in aid from different government sources. No service provider – client relationship exists between the appellants and the government department. The work undertaken at the instance government departmenst cannot be treated as taxable service. The grant in aid paid by the Government cannot be treated as charges for the services rendered by the appellants to the government departments. He relies on voluminous documents in support of his claim. In fact, the appellants filed application for producing certain additional evidence before the Tribunal which evidence has not been considered by the adjudicating commissioner.

4.2. He also submits that identical issue has been decided by the Bangalore Bench of the Tribunal vide final order No.1113-1115/10 dt.22.7.10 in service tax appeals no.ST/555/08, ST/475/08 of ST/432/09 in the case of APICO Ltd. Co.Ltd. and others vs. CCE, Hyderabad.

5. Learned SDR reiterates the findings and reasoning of the Commissioner.

6. We have carefully considered the submissions from both sides and perused the records. We find that the order of the commissioner does not deal with the various issues raised before us. Further, as submitted by the learned Advocate, we find that correspondences exchanged between the department and the appellants which are sought to be relied upon before us have not been considered by the commissioner. Further, the decision of the Tribunal dated 16.8.10 was not available when the matter was considered by the commissioner. It was also claimed that the bifurcation of taxable and non taxable services has been properly appreciated by the Commissioner.

7. In view of the above and in the interest of justice, we deem it appropriate to set aside the order of the commissioner and remand the matter for fresh consideration after granting reasonable opportunity to the appellants. The appellants are permitted to file submissions including the evidence sought to be relied on within 45 days from the date receipt of this order. The Commissioner shall decide the issue afresh expeditiously preferably within six moths from the date receipt of this order.

8. The appeal is disposed of as above.

(Pronounced in the open court)

(ARCHANA WADHAWA)
MEMBER (JUDICIAL)

(M.VEERAIYAN)
MEMBER (TECHNICAL)

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