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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/423 /2011 - CU[DB]
ST/833/11

Date 16/12/2011

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

To :
C.C.E. CHANDIGARH
C.R. BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH 160017

C.C.E. CHANDIGARH Appellant

Vs

M/S SIGMA VIBRACOUSTIC (INDIA) PVT. LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.**ST/647 **2011 CU[DB]** dated 13.12.11 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Alongwith Stay Order No ST/858/11

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
M/S SIGMA VIBRACOUSTIC (INDIA) PVT. LTD.
A-30, INDUSTRIAL AREA,
SECTOR-73, PHASE-VII, MOHALI,
(PUNJAB)
2. Adv. / Consult mr. Joy Kumar, Adv.
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 (Harvana)
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. 2, R.K. Puram, NEW DELHI

COURT No. III

Stay Application No.833 of 2011
Service Tax Appeal No.423 of 2011

Date of Hearing / Decision : 07.12.2011.

[Arising out of Order-In-Appeal No.177/CE/CHD-I/2010, dated 30.11.2010 issued by CCE, Chandigarh]

For approval and signature:
Hon'ble Ms. Archana Wadhwa, Judicial Member
Hon'ble Mr. Rakesh Kumar, Technical Member

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?	Yes

CCE, Chandigarh — Appellant
Versus
M/s Sigma Vibracoustic (I) P.Ltd. — Respondent

Coram: Hon'ble Ms. Archana Wadhwa, Judicial Member
Hon'ble Mr. Rakesh Kumar, Technical Member

Present for the Appellant - Shri K.P.Singh, DR
Present for Respondent - Shri Joy Kumar, Adv.

Stay order No: ST/858/11
Final **Order No.** ST/647/11 **Dated :** 13.12.11

Per Ms. Archana Wadhwa:

After rejecting the stay application, we proceed to decide the appeal of the Revenue itself as the issue stands covered by the decision of the Larger Bench of the Tribunal.

2. Vide his impugned order, Commissioner(Appeals) has allowed refund of service tax paid on B/L fee, terminal handling charges, destination handling charges and delivery charges.

Revenue's grounds in their memo of appeal is that such services cannot be considered to be Port Services and hence not eligible for refund.

3. It also stands submitted before us that the service providers were registered under different categories and not under the category of Port Services.

4. We find that the issue is no more res integra, Larger Bench of the Tribunal in the case of Western Agencies Pvt. Ltd. reported in 2011(22)STR305(Tri.) has held that any service provided by a port or any authorised person in relation to vessel or goods in the port area has to be classifiable as Port Services. However, the Tribunal in the case of Dishman Farma & Chemicals Ltd. reported in 2011(21)STR246(Tri.-Ahd.) has held that registration of service provider under different category cannot be a ground for denial of refund as per Board's Circular No.112/6/2009-ST, dtd. 12.03.09.

5. In as much as the issue stands covered by the above referred decisions of the Tribunal, we find no infirmity in the impugned order of the Commissioner(Appeals). Accordingly, appeal filed by the Revenue is rejected.

(Dictated and pronounced in the Open Court)

(Archana Wadhwa)
Judicial Member

(Rakesh Kumar)
Technical Member

RK-I