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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/18 /2008 - CU[DB] Date **23/12/2011**

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

To :
M/S SARASWATI SHIKSHA KENDRA
NEAR GOVT. RAJINDRA COLLEGE, CIVIL LINES,
BHATINDA

M/S SARASWATI SHIKSHA KENDRA Appellant

Vs

C.C.E. LUDHIANA Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/650/ 2011 CU[DB]** dated 21.12.2011 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. LUDHIANA
CENTRAL EXCISE HOUSE, 'F'
BLOCK, RISHI NAGAR,
LUDHIANA 141001 (PUNJAB)

2. Adv. / Consult
MR.G.S.BHANGOO
H.NO. 5, SECTOR-10A, CHANDIGARH.

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
PRINCIPAL BENCH, NEW DELHI
Court No.III

ST/A Nos.18/2008

(Arising out of order in appeal No.446/CECHD/07 dated 8.10.07 passed by the Commissioner of Customs & Central Excise (Appeals), Jalandhar)

Date of Hearing:29 .11.2011

For Approval and signature:

Hon'ble Mr D.N. Panda, Member Judicial
Hon'ble Mr.Mathew John, Technical Member

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1. Whether Press Reporters may be allowed to see The order for publication as per Rule 27 of the CESTAT(Procedure) Rules, 1982? Yes

2. Whether it would 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 Department Authorities? NO

M/s Saraswati Shiksha Kendra Appellants

Vs

CCE, Ludhiana Respondent

Appeared for the Appellant: None
Appeared for the Respondent: Shri Amresh Jain , SDR

Coram: **Hon'ble Mr D.N. Panda, Judicial Member**
Hon'ble Shri Mathew John, Technical Member

Final ORDER No ST/650/11

Per D.N. Panda:

None present for the appellant. The matter is on the board since 27.7.2011.

2. In the absence of the appellant, we have perused the show cause notice. The show cause notice brought the Appellant to the fold of law as commercial training or coaching service provider. The fees collected by the appellant was subject matter of investigation. Claim of the appellant was 75% of the collection is attributable to consideration for providing service by the appellant and 25% of fees collection was payable to the Career Point Infosystems Ltd. There appears an agreement dated 20.3.03 between the parties (Appellant and Career Point). None of the authorities appear to have examined contents of the agreement since nothing comes out from their order as to the modality of working under the agreement. There is no dispute by the appellant to pay service tax on 75% of the services. What is the dispute is only on 25% of the receipts.

3. Learned Appellate authority confirmed levy of service tax on 25% of receipts made as aforesaid and also imposed penalty.

4. Learned DR submits that no documents came forward for examination of the modus operandi of the appellant for which the authorities passed appropriate order as considered proper.

5. With the observations aforesaid, we tested the submissions of learned DR. We consider it proper to remit the matter back to the learned Original Authority to grant an opportunity of hearing to the appellant to plead defence, if any, on the agreement dated 20.3.03.

That authority is at liberty to consider all legal aspects in the course of re-adjudication and apply the law. In the result, the matter is remanded as above.

(Order dictated and pronounced in the open Court.)

(MATHEW JOHN)
Member Technical
MPS*

(D.N. PANDA)
Member Judicial