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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/636 /2011 - CU[DB]
ST/1245/2011

Date **26/12/2011**

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

To :
M/S RAVI CONSTRUCTION CO.,
ROAD NO. 3, NEAR MORDEN PUBLIC SCHOOL,
JHUNJHUNU (RAJAJTHAN)

M/S RAVI CONSTRUCTION CO., Appellant

Vs

C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No.** ST/657/ **2011 CU|DB|** dated 12.12.2011 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/875/11

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
C.C.E. JAIPUR I
N.C.R.BUILDING, STATUE
CIRCLE, "C" SCHEME, JAIPUR
302005.

2. Adv. / Consult

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)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

Date of Hearing:12.12.2011
Date of Decision:12.12.2011

Service Tax Stay Application No.1245 of 2011 & in Service Tax Appeal No.636 of 2011

M/s. Ravi Construction Company — Appellant

Versus

CCE, Jaipur-I — Respondent

Appearance: Rep. by none for the appellant.
Rep. by Shri B.L. Soni, SDR for the respondent.

CORAM : **Hon'ble Shri D.N. Panda, Judicial Member**
Hon'ble Shri Rakesh Kumar, Technical Member

Stay order No. ST/375/11
Final Order No. ST/657/11 Dated : 12.12.2011

Per. D.N. Panda

None present for the appellant. There is a request from the appellant to decide the matter on merits.

2. The controversy in this appeal is whether the activity carried out by the appellant as described in 'G' Schedule to the Work Order issued by PWD, Jhunjhunu amounts to the management, maintenance and repair.

3. Ld. SDR says that a sum of Rs.15,74,114/- relates to repair work only. Therefore, both the authorities properly held against the appellant.

4. Heard ld. SDR and perused the adjudication order as well as the appellate order.

5. Ld. Adjudicating Authority did not examine the scope of activity carried out by the appellant which is claimed by Revenue to have been done on the basis of 'G' Schedule as aforesaid. We have examined the documents appearing at pages 22 to 26 of the appeal folder. That relate to work order awarded to the appellant for a value of Rs.19,04,576/-. The stretch of the road was 166/0 to 198/0 Km. In absence of any clear finding on the items of the 'G' Schedule amounting to repair, the adjudication suffers from legal infirmity. When Authorities failed to examine the items of the "G" Schedule minutely for levy of tax, there is no scope to agree with Revenue that the appellant carried out management, maintenance and repair activities. Therefore, dispensing the pre-deposit, appeal is allowed.

[Dictated and pronounced in the open court]

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

Ckp.