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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/259 /2007 - CU[DB] Date **06/09/2011**

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

To :
M/S R.S GUPTA & CO.
144, AMBABARI, JAIPUR.

M/S R.S GUPTA & CO. Appellant

Vs

C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/422/ 2011 CU[DB]** dated 29.08.2011 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. JAIPUR I
N.C.R.BUILDING, STATUE
CIRCLE, "C" SCHEME, JAIPUR
302005.

2. Adv. / Consult
~~**MR.PANKAJ MALIK**~~
~~CHARTERED ACCOUNTANTS 207-208,~~
~~SHREE GOPAL TOWER, KRISHNA MARG,~~
~~C-SCHEME, JAIPUR-302001~~
Mr. Bipin Garg. Adv.
B-1/1289, Vasant Kunj
New Delhi
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

Appeal No.ST/259/2007-ST

(Arising out of Order-in-Appeal No.68-69(GRM)ST/JPR-2007 dt.21.3.07 passed by the Commissioner of Central Excise (A), Jaipur)

Date of Hearing/Decision: 24.08.2011

For approval and signature:
Hon'ble Mrs.Archana Wadhawa, Member (Judicial)
Hon'ble Mr.Mathew John, 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?	Yes

M/s.R.S.Gupta & Co. Appellant

Vs.

CCE, Jaipur Respondent

Present for the Appellant: Ms.Neha Gulati, proxy Counsel
Present for the Respondent: Shri Sunil Kumar, SDR

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

Final **ORDER NO.** ST/422/11

PER: ARCHANA WADHWA

After hearing both sides, it is seen that service tax of Rs.77,682/- stands confirmed against the appellants for the period 14.5.2003 to 31.12.2003 by treating the services being provided by them as sub broker of M/s.JSEL Securities Ltd., a share broker. The ld. Adv. submitted that as appellant company was covered under the definition of stock broker services, only after the amendment form 10.9.2004 and inasmuch as the period involved in the present appeal is prior to the said date, no tax liability can be fastened against the appellant.

2. We find that the issue is no more res integra and stands settled by the Larger Bench of the Tribunal in the case of Vijay Sharma & Co. vs. CCE, Chandigarh reported in 2010 (20) STR 309 (Tri.-LB) wherein it is held that the services provided by the sub broker in connection with the sale or purchase of securities listed in recognised stock exchange shall be taxable service with effect from 10.9.2004, when the definition of the stock broker, as per section 65 (101) of Finance Act, 1994 was amended. Inasmuch as the issue is settled, we aside the impugned order and allow the appeal with consequential relief to the appellants.

(Pronounced in the open court)

(ARCHANA WADHAWA)
MEMBER (JUDICIAL)

(MATHEW JOHN)
MEMBER (TECHNICAL)

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