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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/907 /2010,ST/S/1798/2010 - CU[DB] Date **29/03/2011**

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

To :
M/S SAHNI VIDEO MOVEIES,
HOUSE NO. 3010/02, JATTAN WALA CHAUNTRA,
NEAR QUILA CHOWK, PATIALA-147001.

M/S SAHNI VIDEO MOVEIES, Appellant

Vs

C.C.E. CHANDIGARH Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/110/ 2011 CU[DB]** dated 14.03.11 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/160/11

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
C.C.E. CHANDIGARH
C.R. BUILDING, PLOT NO. 19,
SECTOR 17-C, CHANDIGARH
160017

2. Adv. / Consult
MR.JATINDER MOHAN, COUNSLT.
4A, STREET NO. 2, GHUMAN NAGAR,
OPP. GEETA SERVICE STATION
SIRHIND ROAD, PATIALA-147004
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. M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
9. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005
10. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
11. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
12. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
13. Office Copy
14. Guard file

Assistant Registrar
(Customs Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
Court No.IV

ST/Stay No.1798/10, ST/Appeal No.907/10

(Arising out of order in appeal No.38/ST/Chd.II/2010 dated 16.3.2010 passed by the Commissioner of Central Excise (Appeals),Chandigarh)

Date of Hearing: 14.3.2011

For Approval and signature:

Hon'ble Mr D.N. Panda, Judicial Member
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?

2. Whether it would be released under Rule 27 of the CESTAT (Procedure) rules, 1982 for publication in any authoritative report or not?

3. Whether their lordships wish to see the fair copy of the order?

4. Whether order is to be circulated to the Department Authorities?

M/s Sahni Video Movies Appellants

Vs

CCE, Chandigarh-II Respondent

Appeared for the Appellant: Shri Jatinder Mohan, Advocate
Appeared for the Respondent: Shri Fateh Singh, SDR

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

Stay order No. S.T/160/11
Final Order No...S.T/110/11....................dated........................

Per D.N. Panda:

Although this matter was fixed only for stay hearing, the learned Counsel states that if benefit under the Notification No.7/2001-ST dated 9.7.2001 is extended, the demand shall not be sustained.

2. The Notification appearing at page 24 of the brief reads as under:-

> *"Service-tax – Video Tape production – Exemption to services provided by individual professional videographer*
>
> *In exercise of the powers conferred by section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable service provided to a client by an individual professional videographer in relation to video tape production from the whole of the service tax leviable thereon under section 66 of the said Act.*
>
> *This notification shall come into force on the 16th day of July, 2001"*
>
> *[Notification No.7/2001 dated 9.7.2001].*

3. The learned Counsel says that the Appellant is an individual videographer operating from his home. Therefore he was not liable to pay any service tax. The above notification was in force from 9.7.2001 to 16.6.2005.

4. The learned DR on the other hand, supports the order of the authority below.

5. Heard both sides.

6. Notification cited above has been looked into by us. Though the benefit of the notification was claimed in First Appeal, the authority rejected the claim on the ground that it was not claimed earlier. It is a settled position that an exemption can be claimed at any stage if it was available to the litigants. Therefore, we allow the appeal dispensing with the pre-deposit.

(D.N. PANDA)
Member (Judicial)

(MATHEW JOHN)
Technical Member

MPS*