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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/1097/2010 - CU[DB], ST/S/2233/10 Date **07/04/2011**

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

To :
M/S KTL PVT. LTD.,
FARIDABAD ROAD, INDIRA NAGAR, LUCKNOW
226016

M/S KTL PVT. LTD., Appellant
Vs
C.C.E. LUCKNOW Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/144/ 2011 CU[DB]** dated 25.03.11 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/211/11

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
C.C.E. LUCKNOW
7-A, ASHOK MARG, LUCKNOW.

2. Adv. / Consult : Sh. Shashank Shekhar
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. 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,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
BENCH-DB

Date of Hearing: 11.03.2011

Service Tax Stay Appn. No.ST/S/2233/10 in
Service Tax Appeal No.ST/1097/10

M/s. KTL Pvt. Ltd. ...Appellant

Vs.

CCE, Lucknow ... Respondent

Present for the Appellant :Shri Shashank Shekhar, Advocate
Present for the Respondent :Shri Amesh Jain, SDR

Coram: HON'BLE MR.D.N.PANDA, JUDICIAL MEMBER
HON'BLE MR. MATHEW JOHN, TECHNICAL MEMBER

Final **ORDER NO.** ST/144/11 **DATED: 11.03.2011**
Stay order No. ST/211/11
PER: D.N.PANDA

Although this matter has been fixed for stay hearing, we proceed to dispose the appeal dispensing the pre-deposit.

2. Ld. Counsel submits that taxes that were due were paid before issuance of show cause notice. Ld. Counsel submits that the appellant does not press against the service tax demand, but prayer is for granting immunity from penalty because of the controversy in interpretation of law. He fairly agrees that the interest element arising out of tax demand shall be paid.

3. When a fair proposition as above comes forward, to remove the hardship to the appellant, we dispense requirement of pre-deposit. So also, we proceed to dispose the appeal itself. When we do not find the appellants contention against service tax demand, we confirm that demand and direct the appellant to make deposit of the interest that shall be payable in accordance with law against the service tax demand. So far as the penalties are concerned, we appreciate the difficulty that has been experienced by the appellant at the early stage of implementation of law. Such a mitigating factor warrants invoking of provisions of section 80 of the Finance Act 1994 to appreciate reasonable cause to exonerate appellant from penalty. But we are constrained to accept the entire submission in toto. The penalty imposed under section 76 and 78 are only waived confirming all other penalties imposed under the law.

[Dictated & Pronounced in the open Court].

(D.N.PANDA)
JUDICIAL MEMBER

(MATHEW JOHN)
TECHNICAL MEMBER

Anita