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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/216 /2008-226 /2008 - CU[DB] Date **28/09/2011**

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

To :
C.C.E. LUDHIANA

CENTRAL EXCISE HOUSE, 'F' BLOCK,
RISHI NAGAR, LUDHIANA 141001 (PUNJAB)

C.C.E. LUDHIANA Appellant

Vs

M/S S.S. DIGITAL IMAGES, Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/505-515/ 2011 CU[DB]** dated 20.09.2011 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
M/S S.S. DIGITAL IMAGES,
OPP. OLD D.M.C,LUDHIANA (PB)

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 (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)

P.7.0.

M/S FAMOUS COLOR LAB PVT. LTD. – SC/219/08
CIVIL LINES,DANDI SWAMI CHOWK,LUDHIANA.

M/S VAHOO COLOR LAB – SC/225/08
FOUNTAIN CHOWK,LUDHIANA. SC/226/08

M/S SHIVAM COLOR LAB – SC/220/08
DASHMESH NAGAR,STREET NO. 13,LUDHIANA.

M/S SOOD PHOTOGRAPHERS – ~~SC/217/08~~
RAIKHY CINEMA,LUDHIANA (PB)

M/S VAHOO COLOR LAB
FOUNTAIN CHOWK,LUDHIANA (PB)

M/S SOOD STUDIOS PVT. LTD. – SC/218/08, ~~[illegible]~~
OPP.OLD D.M.C,CIVIL LINES,LUDHIANA (PB)

M/S FOTO FAST COLOUR LAB, – SC/221/08
TEHSIL ROAD,JAGRAON, LUDHIANA (PB)

M/S SOOD PHOTOGRAPERS –
RAIKHY CINEMA ROAD,LUDHIANA.

M/S SOOD PHOTOGRAPHERS, – SC/222/08
CAMPA COLA CHOWK,LUDHIANA (PB) SC/217/08

M/S SOOD STUDIOS PVT. LTD.
OPP. OLD D.M.C,CIVIL LINES,LUDHIANA.

M/S VAHOO COLOR LAB,
MATA RANI CHOWK,LUDHIANA (PB)

M/S AMUL STUDIO & COLOR LAB. — S1/223/08
OPP. PNB, GILL ROAD,LUDHIANA.

M/S S.S.DIGITAL IMAGES
OPP. OLD D.M.C,LUDHIANA.

M/S SHIVAM COLOR LAB,
DASHMESH NAGAR,STREET NO.13,LUDHIANA (PB)

M/S SOOD STUDIO,
SAMRALA CHOWK,LUDHIANA (PB)

M/S SOOD STUDIOS PVT. LTD. — S1/224/08
SAMRALA CHOWK,LUDHIANA.

M/S AMUL STUDIO & COLOUR LAB,
GILL ROAD, OPP. PNB,LUDHIANA (PB)

M/S FAMOUS COLOR LAB,
DANDI SWAMI CHOWK,LUDHIANA (PB)

M/S FOTO FAST COLOUR LAB.

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. III

DATE OF HEARING : 14/09/2011.
DATE OF DECISION : 14/09/2011.

Service Tax Appeal No. 216 of 2008

CCE, Ludhiana — Appellants

Versus

M/s S.S. Digital Images — Respondent

Service Tax Appeal No. 217 of 2008

CCE, Ludhiana — Appellants

Versus

M/s Sood Photographers — Respondent

Service Tax Appeal No. 218 of 2008

CCE, Ludhiana — Appellants

Versus

M/s Sood Studios (P) Ltd. — Respondent

Service Tax Appeal No. 219 of 2008

CCE, Ludhiana — Appellants

Versus

M/s Famous Color Lab — Respondent

Service Tax Appeal No. 220 of 2008

CCE, Ludhiana — Appellants

Versus

M/s Shivam Color Lab — Respondent

Service Tax Appeal No. 221 of 2008

CCE, Ludhiana Appellants

Versus

M/s Foto Fast Colour Lab Respondent

Service Tax Appeal No. 222 of 2008

CCE, Ludhiana Appellants

Versus

M/s Sood Photographers Respondent

Service Tax Appeal No. 223 of 2008

CCE, Ludhiana Appellants

Versus

M/s Amul Studio & Colour Lab Respondent

Service Tax Appeal No. 224 of 2008

CCE, Ludhiana Appellants

Versus

M/s Sood Studio Respondent

Service Tax Appeal No. 225 of 2008

CCE, Ludhiana Appellants

Versus

M/s Vahoo Color Lab Respondent

Service Tax Appeal No. 226 of 2008

CCE, Ludhiana Appellants

Versus

M/s Vahoo Color Lab Respondent

[Arising out of the Order-in-Original No. 49, 52, 53, 103, 107, 108, 50, 4, 2, 8 and 49 /STC/AC/LDH-III/ 2005-06 dated 02/03/2006, 05/04/06, 01/05/06, 12/4/06, 9/1/06 and 02/03/06 all passed by The Commissioner, Central Excise Commissionerate, Ludhiana.]

For Approval and signature :

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Rakesh Kumar, 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 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?	:	Yes

Appearance

Shri Amrish Jain, Authorized Representative (SDR) – for the Appellants.

Shri Sudhir Malhotra, Advocate – for the Respondent.

CORAM : **Hon'ble Mrs. Archana Wadhwa, Member (Judicial)**
Hon'ble Shri Rakesh Kumar, Member (Technical)

Final Order No. ST/505-515/11 Dated : 20/9/11

Per. Archana Wadhwa :-

All the appeals filed by the Revenue are being disposed of by common order as they are directed against the same impugned orders and issue involved is identical.

2. After hearing both the sides duly represented by Shri Amrish Jain, learned Senior Departmental Representative for the appellant and Shri Sudhir Malhotra, learned Counsel for the respondent, we find that proceedings were initiated against the

respondent for confirmation of differential amount of service tax on the ground that the cost of the photography paper and chemicals etc. used by the respondent while providing photographic services are required to be added in the value of the said services.

3. The show cause notices so issued were dropped by the original Adjudicating Authority by taking note of the various decisions of the Tribunal as also by taking note of the Board's letter dated 07/4/04. The said order were reviewed by the Commissioner, who vide his impugned orders confirmed the demands ~~and~~, alongwith confirmation of interest under Section 75 and imposed penalties equal to the amount of service tax in terms of Section 78 of the Finance Act, 1994. The said order of Commissioner passed in review proceedings is impugned before us by the Revenue on the ground that penalties under Section 76 and 77 of the Finance Act, should have also been imposed by the Commissioner.

4. It is seen that the same order-in-review passed by Commissioner was also impugned by the respondents, the Tribunal vide its order reported in **2009 (15) STR 93 (Tri. – Del.)**, set aside the same and allowed the appeals of the respondent. The Revenue challenged the said order of the Tribunal before the Hon'ble High Court of Punjab & Haryana, who rejected the appeals vide its order dated 03/02/2010. Thereafter the matter was taken up to Hon'ble Supreme Court and the Revenue's appeals were dismissed.

5. As such, it is seen that the Tribunal's order setting aside the order-in-review passed by the Commissioner stands confirmed up to Hon'ble Supreme Court. The Revenue's present appeals against the same impugned order-in-review for imposition of penalties under Section 76 and 77 of the Finance Act, have become infructuous and nothing survives in the present appeals, the same are accordingly rejected.

(Operative part of the order pronounced in the open court.)

(Archana Wadhwa)
Member (Judicial)

(Rakesh Kumar)
Member (Technical)

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