14

TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066

CUSTOMS APPEAL BRANCH

Appeal No. ST/124 /2008 - CU[DB] Date **28/06/2011**

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

To :
M/S MOOLCHAND CLEARING AGENCIES

14, RAJHANS COLONY,BRAHAMPURI,JAIPUR (RAJ.)

M/S MOOLCHAND CLEARING AGENCIES Appellant

Vs

C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/252/ 2011 CU[DB]** dated 20.06.11

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.BIPIN GARG
B-1/1289,A-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

COURT NO. II

Service Tax Appeal No. 124 of 2008

[Arising out of Order-in-Appeal No. 218(RKS)ST/JPR-I/2007 passed by the Commissioner of Customs & Central Excise (Appeals-I), Jaipur].

Date of Hearing/decision: 1st June, 2011

For approval and signature:

Hon'ble Shri D.N. Panda, Judicial Member;
Hon'ble Shri Sahab Singh, Technical Member

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 should 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 Departmental authorities?	

M/s. Moolchand Clearing Agencies — Appellant

Vs.

CCE, Jaipur-I — Respondent

Present for the Appellant : Shri Mayank Garg, Advocate
Present for the Respondent : Shri Sumit Kumar, D.R.

Coram: Hon'ble Shri D.N. Panda, Judicial Member
Hon'ble Shri Sahab Singh, Technical Member

FINAL ORDER NO. ST/252/11 **DATED** 20.6.11

Per D.N. Panda:

Learned Counsel vehemently argued that service provided by the appellant was not for promotion or marketing of service provided by the client of the appellant. It was only getting commission for making the bills and to keep the goods of Jaipur Golden Transport Company. Such an activity cannot be called as "Business Auxiliary Service".

2. Learned D.R. supports the order of the authority below.

3. We have tried to understand contention of the appellant and the matter as explained in the show cause notice. Show cause notice shows that the appellant received commission from Jaipur Golden Transport Company. There is no evidence on record to show that the appellant has received commission for no service provided to the said Jaipur Gold Transport Company. Perusal of page 15 in appeal folder carrying agreement between the appellant and Jaipur Golden Tpt. Company shows that later was engaged in transport business and the former was engaged in booking goods for the former. There was also prohibitory clause i.e. clause (2) refraining the appellant from carrying out such activity for any other transport. The appellant was getting commission @ 6.5 per cent of the booking amount. All these features clearly suggest that appellant's earning was linked with transport charges extending its helping hand for marketing the service of M/s. Jaipur Golden Transport Company. Such finding alone is enough for dismissing appeal of the appellant who has

provided taxable service of Business Aauxiliary. Accordingly, appeal is dismissed.

(Dictated & pronounced in the Open Court.)

(D.N. PANDA)
JUDICIAL MEMBER

(SAHAB SINGH)
TECHNICAL MEMBER

RK