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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/297 /2008 - CU[DB]   Date **24/01/2011**

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

To :
C.C.E ALLAHABAD

38,M.G.MARG, CIVIL LINES, ALLAHABAD

C.C.E ALLAHABAD   Appellant

Vs

M/S P.T.EDUCATION & TRAINING SERVICE LTD.   Respondent

I am directed to transmit herewith a certified copy of **Final order No. ST/11/ 2011 CU[DB]** dated 20.01.1

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 P.T.EDUCATION & TRAINING SERVICE LTD.
11/06, TASHKAND
ROAD,ALLAHABAD. (U.P.)
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. 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 (Harvana)
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)

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. IV

Date of Hearing : 19.1.2011

Service Tax Appeal No. 297 of 2008

[Arising out of the Order-in-Appeal No. 07-ST/ALLD/2008 dated 26.2.2008 passed by The Commissioner, Central Excise, Allahabad]

For Approval and signature :

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. M. Veeraiyan, 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

CCE, Allahabad — Appellant

Vs.

M/s P.T. Education & Training Service Ltd. — Respondent

Coram : Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. M. Veeraiyan, Member (Technical)

Final Order No. ST/11/11 dated 20.1.11

Per **Archana Wadhwa:**

Being aggrieved with the order passed by the Commissioner (Appeals), Revenue has filed the present appeal.

2. The respondents are engaged in providing the services of commercial training and coaching and collected fees from the students during the period from May 2003 and June 2003 towards the coaching to be given thereafter. Such services were to be under the Service Tax net with effect from 1.7.2003. The Revenue entertained a view that though the fee was collected prior to 1.7.2003, the coaching service was actually provided after the said period and as such the respondent is to pay Service Tax on pro-rata basis.

3. Accordingly, proceedings were initiated vide issuance of a Show Cause Notice dated 20.7.2006 proposing to confirm the demand of Rs.21,933/-. The said proceeding culminated into an order passed by the original adjudicating authority confirming the demand as also imposing penalties. On an appeal Commissioner (Appeals) set aside the impugned order on merits as also on limitation.

4. We propose to dispose of the present appeal on the ground of limitation itself. The Commissioner (Appeals), while holding in favour of the respondent, has followed earlier decision of the Tribunal in the same appellant's unit at Vadodara (vide Final Order No. A/2173/WZB/AHD/07 dated 16.8.2007)

5. The Revenue in their memo of appeal have not submitted that the earlier order of the Tribunal in the same respondent's case is not applicable. However, they have contended that the Commissioner (Appeals) should have followed the earlier order in the case of M/s

Sachdeva New P.T. College. We find no merit in the above contention, the Tribunal having decided ~~designed~~ the issue in respect of same parties, Commissioner (Appeals) was bound to follow the said order in stead of his own earlier order in some other case. As such, we find no merit in the above said appeal of the Revenue and reject the same.

(Pronounced in Court)

(ARCHANA WADHWA)
MEMBER (JUDICIAL)

(M. VEERAIYAN)
MEMBER (TECHNICAL)

RM