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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

ST/689 /2010 - CU[DB]
Appeal No. ST/S/1227/10

Date **24/02/2011**

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

To :
C.S.T. DELHI

17-B, I.P. ESTATE, IAEA HOUSE, NEW DELHI.

C.S.T. DELHI Appellant

Vs

M/S. CRM SERVICES INDIA PRIVATE LIMITED Respondent

I am directed to transmit herewith a certified copy of **Final order No. ST/54/ 2011 CU[DB]** dated 21.02.11

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/105/11

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
M/S. CRM SERVICES INDIA PRIVATE LIMITED
220, IST FLOOR, VINOBA PURI,
LAJPAT NAGAR-II, NEW DELHI
110024
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 (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.1227/10, ST/Appeal No.689/10

(Arising out of order in appeal No. 38/ST/D.II/2010dated 2.2.2010 passed by the Commissioner (Appeals), Central Excise, Delhi)

Date of Hearing 21.2.2011

For Approval and signature:

Hon'ble Mr Ashok Jindal, Judicial Member
Hon'ble Mr.Mathew John, 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?	Yes
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?	No
4.	Whether order is to be circulated to the Department Authorities?	No

CST, Delhi — Appellants

Vs

M/s CRM Services (I) Pvt Ltd — Respondent

Appeared for the Appellant: Shri B.L. Soni, SDR
Appeared for the Respondent: Shri B.L. Narasimhan, Advocate

Coram: **Hon'ble Mr Ashok Jindal, Member (Judicial)**
Hon'ble Mr. Mathew John, Member (Technical)

Stay order No. ST/105/11
Final ORDER No. ST/54/11

Per Ashok Jindal:

The Revenue is in appeal. The facts of the case are that the respondents filed a refund claim before the adjudicating authority who rejected their refund claim. Thereafter, the respondent filed an appeal before the Commissioner (Appeals) who after considering all the submissions, remanded the matter back to the adjudicating authority to pass a de-novo order after hearing the respondents.

2. Revenue is in appeal against the said order of remand on the ground that as per the Finance Act, 2001 the power of remand by the Commissioner (Appeals) has been withdrawn w.e.f. 31.5.2001.

3. Heard both sides.

4. We find that the issue involved is of narrow compass. Therefore, after staying the operation of the impugned order, we take up the appeal itself for final disposal as agreed by both the sides.

5. After hearing both the sides, we find that it is true that the power of remand has been withdrawn by the Statute in Finance Act, 2001 w.e.f. 13.5.2001 and the same has been confirmed by the Apex Court in the case of M.I. India Vs CCE, Ghaziabad reported in 2007 (210) ELT 188 (SC).

5. As by Finance Act, 2001, the power of Commissioner (Appeals) has been taken away for remand. Hence, the impugned order is set aside. The appeal is allowed by way of remand to the Commissioner (Appeals) to decide the issue on merits after considering the submissions made by both the sides. It is pertinent to mention that the Commissioner (Appeals) will give hearing to both the sides to

argue the matter on merits. The stay application is also disposed of in the above terms.

(Order dictated and pronounced in the open Court.)

(ASHOK JINDAL)
Member (Judicial)

(MATHEW JOHN)
Technical Member

MPS*