

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/2623/2010 - EX[DB] WITH E/S/2389/2010-EX

Date 13/06/2011

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

To :
M/S FLUOR DANIEL INDIA PRIVATE LIMITED
6TH FLOOR, BUILDING NO 8C, DLF CYBER CITY,
DLF CITY PHASE II, GURGAON(HARYANA)
122002

M/S FLUOR DANIEL INDIA PRIVATE LIMITED

Appellant

C.S.T. DELHI

STAY ORDER NO. 635/2011-EX

Vs
Respondent

I am directed to transmit herewith a certified copy of **Final order No. 476/ 2011 EX[DB]** dated 08-6-11
passed by the Tribunal under **Section 35-C(1) of Central Excises Act, 1944**

Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent

C.S.T. DELHI

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

2. Adv. / Consult *SH. S. THIRUMALAI, ADV.,*
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 Publications 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 (Harvana)

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

14. HON'BLE PRESIDENT.

Assistant Registrar
(Excise Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing/decision: 8.6.2011

Stay Application No.2389 of 2010 in Central Excise Appeal No.2623 of 2010

Arising out of the order in appeal No.243/MA/GGN/2010 dated 14.5.10 passed by the Commissioner of Central Excise (Appeals), Delhi III, Gurgaon.

M/s Fluor Daniel India Private Limited .. Appellants

Vs.

C.S.T., Delhi ... Respondent

Appearance:

Shri S. Thirumalai , Advocate with Shri Nitin Sharma, Co.-representative for the appellants

Shri S.K.Panda, Authorised Departmental Representative Jt.CDR) for the respondent

Coram: Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri Rakesh Kumar, Technical Member

STAY Oral Order No. 635/2011-EX

Per Shri Justice R.M.S. Khandeparkar:

Heard the Advocate for the appellants and the Jt.CDR for respondent.

Since we propose to dispose of the appeal itself, the application is allowed without insisting for deposit while directing the registry to place the appeal itself for final disposal forthwith.

(Justice R.M.S. Khandeparkar)
President

(Rakesh Kumar)
Technical Member

scd/

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing/decision: 8.6.2011

Central Excise Appeal No.2623 of 2010

Arising out of the order in appeal No.243/MA/GGN/2010 dated 14/17.5.10 passed by the Commissioner of Central Excise (Appeals), Delhi III, Gurgaon.

For Approval and Signature:

Hon'ble Shri Justice R.M.S. Khandeparkar, President

Hon'ble Shri Rakesh Kumar, Technical Member

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 26 of the CESTAT (Procedure) Rules, 1982?	Yes
2	Whether it should be released under Rule 26 of 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 Departmental authorities?	Yes

M/s Fluor Daniel India Private Limited

.. Appellants

Vs.

C.S.T., Delhi

... Respondent

Appearance:

Shri S. Thirumalai , Advocate with Shri Nitin Sharma, Co.-representative for the appellants

Shri S.K.Panda, Authorised Departmental Representative (Jt.CDR) for the respondent

Coram: Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri Rakesh Kumar, Technical Member

FINAL Oral Order No. 476/2011-EX

Per Shri Justice R.M.S. Khandeparkar:

Heard the Advocate for the appellants and the Jt.CDR for the respondent. The present appeal arises from the order dated 14/17-5-2010 passed

by the Commissioner (Appeals), Delhi whereby the appeal filed by the Department was partly allowed. The said appeal was filed against the order dated 26.8.2009 passed by the Assistant Commissioner sanctioning refund claim by the appellants.

2. Though the impugned order is sought to be challenged on various grounds, it is not necessary to deal with all those grounds and suffice to refer to only one ground which relates to non-disclosure of reasons for the findings arrived at in the impugned order. Mere perusal of the impugned order discloses that the Commissioner (Appeals) while partly modifying the order passed by the adjudicating authority has held that certain services should not be the subject matter of claim for refund whereas certain other could be part thereof. However, before arriving at the finding, neither the matter has been discussed with reference to the facts and law applicable thereto nor any reasoning is disclosed in support of such finding. It is well settled law that the order passed by the judicial or quasi-judicial authority must disclose the reason for arriving at the finding based on which the matter is decided. On this ground alone, the impugned order is set aside and the matter is remanded to the Commissioner (Appeals) to decide the same afresh in accordance with law and by passing a reasoned order. We make it clear that we have not expressed any opinion on any of the points relating to the merits of the case. Taking into consideration the nature of the claim, the Commissioner (Appeals) is expected to dispose of the matter as expeditiously as possible .

3. Appeal accordingly stands disposed of.

(Justice R.M.S. Khandeparkar)
President

(Rakesh Kumar)
Technical Member

scd/