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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/1253/2011 - CU[DB]
ST/S/2637/11

Date **18/04/2012**

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

To :
M/S SHRI RAM ASSOCIATES
PLOT NO. 31, SHOPPING CENTER, JANATA COLONY,
JAIPUR.

M/S SHRI RAM ASSOCIATES Appellant

Vs

C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/A/325/ 2012 CU[DB]** dated 11.04.12 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Alongwtih Stay Order No ST/S/428/12

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.JATIN MAHAJAN,ADV
157, THIRD FLOOR, VINOBHA PURI,
LAJPAT NAGAR, N 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-3
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)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. III

Service Tax Appeal No. 1253 of 2011
Service Tax Stay Application No. 2637 of 2011

[Arising out of Order-in- Appeal No. 230-233 (DKV)ST-JPR-I/2011 dated 25.5.2011 passed by the Commissioner of Service Tax (Appeals) Jaipur]

For approval and signature:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Mathew John, Member (Technical)

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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 should 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 Departmental authorities? : Yes

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M/s. Shri Ram Associates — Appellants

Vs.

Commissioner of Service Tax Jaipur — Respondent

Appearance:

Shri Jatin Mahajan, Advocate for the Appellants
Shri R. K. Gupta, DR for the Respondent

CORAM:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Mathew John, Member (Technical)

Date of Hearing/decision : 11.4.2012

Stay order No. ST/S/428/12-Cus

Final **ORAL ORDER NO.** ST/A/325/12-Cus.

Per Archana Wadhwa (for the Bench):

After dispensing with the condition of pre-deposit of Service Tax of Rs.53,598/- and penalties imposed under various sections, we proceed to decide the appeal itself inasmuch as the issue stands covered by the earlier decision of the Tribunal.

2. After hearing both sides, we find that Service Tax stands confirmed against the appellant on the ground that by ~~indicating~~ undertaking the activity of marketing of loan schemes from various banks, financial institution, the appellant has provided services falling under the category of Business Auxiliary services.

3. Learned advocate appearing for the appellant fairly concedes that the issue stands decided against them by the decision of the Tribunal in the case of Roshan Motors Ltd. vs. Commissioner reported as [2009 (13) STR 667(Tri)]. However, he assails the demand ~~of~~ on limitation.

4. We find that show cause notice stands issued on 7.2.2007 for the period 1.7.03 to 31.8.04, thus invoking the longer period of limitation. Tribunal in the case of Brij Motors Pvt. Ltd. vs. CCE Kanpur reported

as [2012 (25) STR 489 (Tri-Del)] has taken note of the fact that there were decisions of the Tribunal holding in favour of the assesses and as such has held the demand to be barred by limitation. For better appreciation, we reproduce para 14 of the said judgement

> "14. The period involved in this appeal is 20-10-2004 to 18-12-2007. The Show Cause Notice was issued on 21-2-2008. As can be seen from the discussions above the matter was being interpreted by judicial forums in different ways as may be seen from the decisions quoted by the Appellants. The Higher Courts have been taking the view that in such situations the extended period of time cannot be invoked for raising demand. Even in the case of *Bridgestone Financial Services* the Tribunal has given the benefit for such reason. So we are of the view that the demand in this case can be sustained only to the extent covered in the normal period of limitation. In such a situation penalties are not imposable either. The period involved in this appeal is 20-10-2004 to 18-12-2007. The Show Cause Notice was issued on 21-2-2008. As can be seen from the discussions above the matter was being interpreted by judicial forums in different ways as may be seen from the decisions quoted by the Appellants. The Higher Courts have been taking the view that in such situations the extended period of time cannot be invoked for raising demand. Even in the case of Bridgestone Financial Services the Tribunal has given the benefit for such reason. So we are of the view that the demand in this case can be sustained only to the extent covered in the normal period of limitation. In such a situation penalties are not imposable either. "

5. By following the ratio of the above decision, we hold the demand in the present case also is barred by limitation, the same is accordingly, set aside along with setting aside of penalties. The impugned order is set aside and appeal allowed with consequential relief. Stay petition also gets disposed of.

(Pronounced in the open court)

(Archana Wadhwa)
Member(Judicial)

(Mathew John)
Member(Technical)

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