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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/1710/2011 - CU[DB] Date **10/05/2012**
ST/S/3560/11

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

To :
M/S SARVAGYA CONSULTANTS PVT.LTD.
1-D, NEW COLOLY, GUMANPURA, KOTA(RAJ)
324007

M/S SARVAGYA CONSULTANTS PVT.LTD. Appellant

Vs

C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No.**ST/A/367/ **2012** **CU[DB]** dated 03.05.12 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/S/502/12

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.S.C. KAMRA & CO.
B-2/210(BASEMENT),
SAFDARJUNG ENCLAVE,
NEW DELHI- 110029
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)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
BENCH-DB

Service Tax Stay Application No. ST/S/3560/2011 in
Service Tax Appeal No.1710/2011

M/s. Sarvagya Consultants Pvt. Ltd. ...Appellant

Vs.

CCE, Jaipur-I ... Respondent

Present for the Appellant : Shri S.C. Kamra, Advocate
Present for the Respondent : Shri P.K. Sharma, DR

Coram: HON'BLE MR.D.N.PANDA, JUDICIAL MEMBER
HON'BLE MR. MATHEW JOHN, TECHNICAL MEMBER

Date of decision/Hearing: 03.05.2012

Final **ORDER NO.** ST/A/367/12-Cus **DATED:** ______
Stay order No. ST/S/502/12-Cus.
PER: D.N.PANDA

Shri Kamra, Ld. Counsel submits that the appellant who had never provided scientific and technical consultancy as is defined by section 65 (92) of Finance Act, 1994 (the definition is extracted at page 4 of the appeal memo) was unreasonably taxed. What the appellant did is field verification of the credibility of borrowers to place its observations to the funding agencies.

2. The moment above proposition came before us, we looked into page 1 of the adjudication order. That shows that the authority proceeded to treat the appellant as provider of scientific and technical consultancy service without testing the activity carried out by the appellant to determine whether covered by the class of service under which Revenue proposed to bring the appellant. We therefore looked into show cause notice. Show cause notice is also premeditated one to raise demand against the appellant without exhibiting the activity carried out by the appellant. This clearly shows that adjudication was made in vacuum and suffers from legal infirmity of violation of natural justice without any foundation in the show cause notice. Accordingly, orders of both the authorities are set aside and appeal is allowed. When we come to such conclusion, stay application is also disposed.

[Dictated & Pronounced in the open Court].

(D.N.PANDA)
JUDICIAL MEMBER

(MATHEW JOHN)
TECHNICAL MEMBER

Anita