

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

Appeal No. ST/STAY/2323/2011 IN ST/1102/2011 - CU[DB]

Date **03/02/2012**

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

To :
JAYPEE BELA PLANT,
(UNIT-JAIPRAKASH ASSOCIATES LTD.),
JAYPEE PURAM, REWA. (M.P.)
JAYPEE BELA PLANT,

Appellant

Vs

Respondent

C.C.E BHOPAL

STAY ORDER NO.ST/S/94/2012

I am directed to transmit herewith a certified copy of **Final order No.ST/A/91/ 2012 CU[DB]** dated 31.01.2012
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

C.C.E BHOPAL

HOSHANGABAD ROAD, 48,
ADMINISTRATIVE AREA, AREA
HILLS, BHOPAL (M.P.) 462011

2. Adv. / Consult

MR.V. LAXMIKUMARAN

B-6/10, 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 Publications 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 NEW DELHI

Date of Hearing:21.12.2011

Date of decision:21.12.2011

Service Tax Stay Application No.2323 of 2011
In Service Tax Appeal No.1102 of 2011

(Arising out of Order-in-Appeal No.92/BPL/2011 dated 30.03.2011 passed by the Commissioner of Customs & Central Excise (Appeals), Bhopal).

M/s.Jaypee Bela Plant

Appellant

Vs.

CCE, Bhopal

Respondent

For approval and signature:

Hon'ble Smt. Archana Wadhwa, Member (Judicial)

Hon'ble Shri Rakesh Kumar, Member (Technical)

1. Whether Press Reporters may be allowed to see
CESTAT (Procedure) Rules, 1982.

2. Whether it should be released under Rule 27 of the
CESTAT (Procedure) Rules, 1982 for publication
in any authoritative report or not?

3. Whether Their Lordships wish to see the fair copy
of the Order?

4. Whether Order is to be circulated to the Departmental
authorities?

Appearance: Rep. by Shri B.L. Narsimhan, Advocate with
 Shri Amar Pratap Singh, Advocate for the appellant.
 Rep. by Shri R.K. Gupta, SDR for the respondent.

CORAM: **Hon'ble Smt. Archana Wadhwa, Member (Judicial)**
Hon'ble Shri Rakesh Kumar, Member (Technical)

Final Order No. ST/A/91/12-Cus
 Stay order No. ST/5/94/12-Cus

Per Rakesh Kumar:

This is an application for waiver from the requirement of pre-deposit of service tax demand of Rs.64,903/- upheld against the appellant along with interest for the period 1999-2000 to 2000-2001 and imposition of penalty on the appellant under Sections 75A, 76 and 77 of the Finance Act, 1994. The service tax demand has been upheld against the appellant on the ground that that during this period, they had received taxable services from off-shore services providers and hence, the appellant as service recipient were required to pay service tax in respect of the same under the provisions of 2(1)(d)(iv) of the Service Tax Rules, 1994.

2. Though this matter is listed for stay hearing only, after hearing both the sides, we are of the view that this matter can be finally disposed of. Accordingly, the appeal ^{is} ~~was~~ taken up for final disposal with the consent of both the sides, after waiving the predeposit.

3. Both sides agree that the issue involved in this case stands decided against the department by the judgement of the Hon'ble High Court in the case of **Indian National Shipowners Association Vs. Union of India** reported in 2009 (13) STR 235 and this judgement has been affirmed by the Hon'ble Supreme Court vide judgement reported in 2010 17 STR J-157.

4. In view of this, the appeal as well as stay application is allowed.

[order dictated & pronounced in open court]

(~~Archana~~ Wadhwa)
Member (Judicial)

(Rakesh Kumar)
Member (Technical)

Ckp.