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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/M/704/2011 IN ST/318-319, 407 /2008 - CU[DB] Date **13/02/2012**

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

To :
M/S CHAMBAL MOTORS (P) LTD
19,VALLABH NAGAR,KOTA (RAJASTHAN)

M/S CHAMBAL MOTORS (P) LTD Appellant

Vs

C.C.E. JAIPUR I **MISC. ORDER NO.ST/M/26/2012** Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/A/100-102 2012 CU[DB]** dated 08.02.2012 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. JAIPUR I
N.C.R.BUILDING, STATUE CIRCLE,
"C" SCHEME, JAIPUR 302005.

2. Adv. / Consult MR. BIPIN GARG, ADV.
B-1/1289-A, VASANT KUNJ,
NEW DELHI – 110 070.

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
14. M/S BHATIA & CO.
23-24 B, INDUSTRIAL ESTATE
KOTA (RAJASTHAN).
15. M/S PROMPT SERVICES,
284, GOPI PLAZA, SHOPPING CENTRE,
KOTA, (RAJASTHAN).

Assistant Registrar
(Customs Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R. K. Puram, New Delhi.

Date of hearing/decision 18.01.2012

ST Misc. Application No. 704 of 2011
Service Tax Appeal Nos. 318 - 319 of 2008

(Arising out of Order in Appeal No. 20 to 22 (RKS) ST/JPR-I/2008 dt. 20.02.2008 passed by the Commissioner (Appeals-I), Central Excise, Jaipur).

M/s Chambal Motors (P) Ltd. Appellant
M/s Bhatia & Co.
Rep. by Sh. Bipin Garg, Advocate for the appellants.

Vs.

CCE, Jaipur Respondent
Rep. by Sh. B.L. Soni, DR for the respondent.

AND

Service Tax Appeal No. 407 of 2008-Cus
(Arising out of Order in Appeal No. 20 to 22 (RKS) ST/JPR-I/2008 dt. 20.02.2008 passed by the Commissioner (Appeals-I), Central Excise, Jaipur).

M/s Prompt Services Appellant
Rep. by Sh. Alok Kothari, Advocate for the appellants.

Vs.

CCE, Iaipur-I Respondent
Rep. by Sh. K.K. Jaiswal, DR for the respondent.

Coram: **Hon'ble Sh. D.N. Panda, Judicial Member**
Hon'ble Sh. Rakesh Kumar, Technical Member

Final ORDER NO. ST/A/100-102/12-Cus.
Misc order No ST/M/26/12-Cus.

Per: Shri D. N. Panda:

2. The appeal in ST/319 of 2008 could not be heard within the prescribed period of 180 days for which the MA No. 704 of 2011 in that appeal has been filed for extension in terms of stay order. Since appeal is taken up today the miscellaneous application No. 704 of 2011 has become infractuous for which that is dismissed.

3. In all these three appeals services provided was to arrange finance which does not appear to be out of the ambit of Business Auxiliary Services (BAS) since financing business is auxiliarily benefited by the service provided by the appellants. Therefore, without dialating the matter further, all the three appeals are dismissed on the count of demand of service tax.

4. The adjudication orders have also levied penalties under Sections 76, 77 and 78 of the Finance Act, 1994. Liability to tax under law arose. Therefore, default to register falls under Section 77 in all these three cases for which penalty imposed under that section is therefore confirmed.

5. So far as penalty under Section 76 & 78 is concerned, it is submitted by the learned Counsel that when taxability of the described service itself was in doubt and appellants were not able to precisely work out their liability, they are not expected to be penalized for existence of such reasonable cause. The appellants are small business entity. Perusal of the adjudication order shows that the confusion of the law at the insertion had caused hardship in determining liability and law was under debate. Law being in infancy stage for the impugned period, the appellants deserve consideration under Section 80 of the Finance Act, 1994. Looking to the quantum of receipt made by the appellant and also considering smallness of such receipt as well as hardship of small tax payer appellants in interpreting law, there shall be waiver of penalty imposed under section 76 & 78 of the Finance Act, 1994.

6. Before parting with this order we may state that in the case of Chambal Motors (P) Ltd & Bhatia & Co. which is in Service Tax Appeal Nos. 318 of 2008 reported in 2008 (9) STR 275, it is settled that the appellant's activities shall fall within the category of BAS.

7. In the result, all the three appeals are allowed in the manner indicated above.

(Dictated and pronounced in the open Court)

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

Pant