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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/S/2044/2011 IN ST/995 /2011 - CU[DB] Date **05/03/2012**

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

To :
STATE BANK OF INDIA COMMERCIAL BRANCH

5- MADHUBAN, UDAIPUR,

RAJASTHAN – 313 001

**STATE BANK OF INDIA COMMERCIAL BRANCH** Appellant

Vs

**C.C.E. JAIPUR II** Stay Order No. ST/S/157/2012 Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/A/130/ 2012 CU|DB|** dated 16.02.2012 . 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 II**
N.C.R.BUILDING, STATUE CIRCLE,
"C" SCHEME, JAIPUR 302005.

2. Adv. / Consult

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.2, R. K. Puram, New Delhi.**

Date of hearing/decision 10.02.2012

**Service Tax Stay Application No. 2044 of 2011 in**
**Service Tax Appeal No. 995 of 2011**

M/s State Bank of India Commercial Branch — Appellant
None for the appellant.

**Vs.**

CCE, Jaipur — Respondent
Rep. by Sh. B.L. Soni, 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/130/12-Cus.
Stay order No. ST/S/157/12-Cus.

**Per: Shri D. N. Panda:**

None present for the appellant.

2. We have gone through para 2 of the show cause notice. Revenue intends to tax margin of profit arising out of foreign currency deal. That is subject matter of Income Tax Act, 1961. The adjudicating authority has rightly dropped the proceedings. Against the appeal of revenue, the first appellate authority held in its favour. factual matrix suggest that margin of profit is not taxable under Fiance Act, 1994 whereas gross value of taxable service is taxable under that law. Therefore, it is not possible to uphold the appellate order. Consequently, the assessee succeeds and the appeal is allowed.

3. In view of the above decision, stay petition also gets disposed of.

(Dictated and pronounced in the open Court)

**(D.N. Panda)**
**Judicial Member**

**(Rakesh Kumar)**
**Technical Member**

Pant