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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/421 /2008 - CU[DB] Date **12/03/2012**

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

To : M.S.ASSOCIATES,
87-A, ADHCHINI,
SH AUROBINDO MARG, NEW DELHI

M.S.ASSOCIATES Appellant

Vs

C.S.T. DELHI Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/A/142/ 2012 CU[DB]** dated 27.02.2012 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.S.T. DELHI
17-B, I.P. ESTATE, IAEA HOUSE,
NEW DELHI.

2. Adv. / Consult
MR.S.K.PAHWA,ADV
D-75, AMAR COLONY, LAJPAT NAGAR-IV,
NEW DELHI-110024.

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

COURT NO. II

Service Tax appeal No. 421 of 2008

[Arising out of Order-in-Original No. 29/VKG/CST/2008 dated 19.03.2008 passed by the Commissioner of Service Tax, New Delhi].

Date of Hearing/decision: 21st February, 2012

For approval and signature:

Hon'ble Shri D.N. Panda, Judicial Member
Hon'ble Shri Rakesh Kumar, Technical Member

1	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the 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?	

M/s. M.S. Associates — Appellant

Versus

CST, New Delhi — Respondent

Present for the Appellant : Shri S.K. Pahwa, Advocate
Present for the respondents : Shri Amresh Jain, D.R.

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

FINAL ORDER NO. ST/A/142/12-Cus

Per D.N. Panda:

Both sides have no difference on the explanation added to Section 65(19) of the Finance Act, 1994, that it shall operate prospectively. Shri Pahwa says that this aspect was considered by the Tribunal in detail while passing stay order on 10.5.2009. Hon'ble Supreme Court in the case of UOI vs. Martin Lottery Agencies Ltd. - 2009 (14) STR 593 (S.C.) held that explanation was a substantive law and cannot be read retrospectively.

2. Heard both sides and perused the stay order passed [illegible] considering elaborately the facts in question. We are satisfied that activity of the appellant falling under explanation of Section 65(19) of Finance Act, 1994 does not create a liability retrospectively. Therefore, appeal is allowed setting aside impugned order.

(Pronounced in the open Court)

(D.N.PANDA)
JUDICIAL MEMBER

(RAKESH KUMAR)
TECHNICAL MEMBER

RK