14.

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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/394 /2008 - CU[DB] Date **19/01/2012**

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

To :
M/S R.S FINANCIAL SERVICES

27, DEVRAJ MANSION,II FLOOR, ABOVE
ALLAHABAD BANK,JHALAWAR ROAD,
KOTA (RAJ.)-324007

M/S R.S FINANCIAL SERVICES Appellant

Vs

C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/A/46/ 2012 CU[DB]** dated 18.01.2012 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. JAIPUR I
N.C.R.BUILDING, STATUE
CIRCLE, "C" SCHEME,
JAIPUR 302005.

2. Adv. / Consult
MR.SANJAY GROVER
LAW OFFICES, E-500, GREATER KAILASH-II,
NEW DELHI-110 048.

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

COURT-II

Date of hearing/decision: 11.1.2012

Service Tax Appeal No.394 of 2008

Arising out of the order in appeal No.32(RKS)ST/JPR-I/2008 dated 3.7.2008 passed by the Commissioner (Appeals), Customs & Central Excise , Jaipur.

R.S. Financial Services .. Appellants

Vs.

C.C.E., Jaipur I .... Respondents

Appearance:

None for the appellants
Shri R.K. Gupta, A.R. for the respondent

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

Final Oral Order No. ST/A/46/12-Cus.

Per Mr. D.N. Panda:

None present for the appellant.

2. Learned Authorised Representative appearing for the Revenue says that the nature of activity carried out by the appellant was to promote the business of ICICI Bank providing the services of processing of loan application for commercial vehicle which has resulted in promotion of business of the bank as well as the vehicle seller. Therefore, such marketing efforts comes under the category of 'business auxiliary service' as defined by Section 65 (19) of the Finance Act, 1994.Hence the appellant was rightly imposed with tax liability as well as penalty and interest.

3. Heard the learned Representative for Revenue and also perused the contents of the show cause notice. The nature of activity carried out as has been urged by Revenue falls within the ambit of

'Business Auxiliary Service'. Therefore, there is no scope to grant any relief in so far as levy of service tax is concerned.

4. We looked into the penalty aspect involved in appeal. The Appellate order does not demonstrate any mala fide of the assessee to bring it to the fold of penalty under Section 76 and 78 of the Finance Act, 1994. Therefore, there shall be wavier of penalty imposed under these two sections.

5. So far as penalty under Section 77 is concerned, when the liability commencesd such penalty becomes imposable. Therefore, penalty of Rs.1000/- imposed under Section 77 is confirmed.

6. Interest, if any, realizable against the service tax demand shall be payable.

7. With the aforesaid decision, the appeal is partly allowed.

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

scd/