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/670 /2008 - CU[DB] Date **19/01/2012**

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

To :
M/S DOEACC CENTRE,

SCO.114-116, SECTOR-17B, CHANDIGARH.

M/S DOEACC CENTRE, Appellant

Vs

C.C.E. CHANDIGARH Respondent

I am directed to transmit herewith a certified copy of **Final order No.**ST/A/58/ **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. CHANDIGARH
C.R. BUILDING, PLOT NO. 19,
SECTOR 17-C, CHANDIGARH
160017

2. Adv. / Consult
MR.G.S.BHANGOO
H.NO. 5, SECTOR-10A,
CHANDIGARH.

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 10.01.2012

Service Tax Appeal No. 670 of 2008

(Arising out of order in Original No. 138/STC/CHD/2008 dt. 18.7.2008 passed by the Commissioner, Central Excise & Service Tax, Chandigarh).

M/s DOEACC Centre — Appellant

Vs.

CCE, Chandigarh — Respondent

Appearance: Rep. by Sh. Vikrant Kackaria, Advocate for the appellants.
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/58/12-Cus.

Per: Shri D. N. Panda:

Preliminarily, Ld. Counsel says that the appellant was maintaining software for Electricity Board and that was known to department since it was carrying out same activity from 01.07.2003. For the period from 01.07.2003 to 31.3.2006, show cause notice was issued on 6.8.2007 for the clear finding under para 4.2.4 of adjudication order at page 26. There was no element of fraud or suppression nor even intent to evade payment of tax. Therefore, neither tax nor penalty was imposable under provisions of Finance Act, 1994. It is also a fit case of time bar but that did not appeal to the authority below. But adjudication shall not sustain. On above counts.

2. Learned DR for Revenue on the other hand supports the adjudication order and also submits that the proceedings is not time barred.

2. Heard both sides and perused the records.

3. For the crystal finding brought to our notice as has been averred by the learned Counsel for the appellant we are unable to conceive how a time bar proceeding shall stand when there was no element of fraud or suppression of facts nor there was even intent to evade payment of tax. Thus the proceedings comes to an end without being warranted to be initiated under Section 73 of the Finance Act, 1994. Accordingly, the appeal is allowed.

(Dictated and pronounced in the open Court)

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

Pant