TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : cestat08@gmail.com

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
CUSTOMS APPEAL BRANCH

Appeal No. ST/631 /2008-638 /2008,677 /2008-684 /2008 - CU[DB] Date **16/03/2012**

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

To :
C.C.E. MEERUT I

EXCISE CHOWK, UNIVERSITY ROAD,
MANGAL PANDEY NAGAR, MEERUT - 250005.

C.C.E. MEERUT I Appellant

Vs

M/S MAP ENTERPRISES., Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/A/198-213 2012 CU[DB]** dated 22.02.2012 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
(*) **M/S MAP ENTERPRISES.,**
STREET NO.5,221/1,
RAJENDRA NAGAR, DEHRADUN
(UTTARAKHAND)

2. Adv. / Consult AKB ASSOCIATES,
#211, "COMMERCE HOUSE",
9/1, CUNNINGHAM ROAD,
BANGALORE – 560 052.

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)

(*) Please see rest of the addresses at back.

M/S GHANSHYAM ENTERPRISES.,
MISHRA GARDEN, KANKHAL,
HARIDWAR.

M/S NIDHI ENTERPRISES,
26/1, SEWAK ASHRAM ROAD,
DEHRADUN (UTTARAKHAND)

M/S ANU ENTERPRISES.,
182, JAWAHAR NAGAR, PANDITWARI-II,
DEHRADUN, (UTTARAKHAND)

M/S KABIR ENTERPRISES.,
134, KHURBURA,
DEHRADUN (UTTARAKHAND)

M/S TECHNICA HOME SEVICES.,
6, ARVIND MARG, NEAR VAISH NURSING HOME
DEHRADUN (UTTARAKHAND)

M/S PLASH SERVISES.,
101, VISHNU VIHAR, AJABPUR KALAN.
DEHRADUN.

M/S GHANSHYAM ENTERPRISES.,
MISHRA GARDEN, KANKHAL,
HARDWAR (UTTARAKHAND)

M/S NIDHI ENTERPRISES.,
26/1, SEWAK ASHRAM ROAD,
DEHRADUN.

M/S TECHNICA HOME SERVICES.,
6, ARVIND MARG, NEAR VAISH NURSING HOME,
DEHRADUN.

M/S KABIR ENTERPRISES.,
134, KHURBURA, DEHRADUN.

M/S RAGHAV ENTERPRISES.,
16-A, OLD SURVEY ROAD,
DEHRADUN (UTTARAKHAND)

M/S RAGHAV ENERPRISES.,
16-A, OLD SURVEY ROAD,
DEHRADUN

M/S ANU ENTERPRISES.,
182, JAWAHAR NAGAR,
PANDITWARI-II, DEHRADUN.

M/S MAP ENTERPRISES.,
STREET NO.5, 221/1,
RAJENDRA NAGAR, DEHRADUN.

M/S PLASH SERVICES.,
4/4, LANE NO.3, TEGBAHADUR ROAD,
DEHRADUN (UTTARAKHAND)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

Date of Hearing:22.02.2012
Date of decision:22.02.2012

For approval and signature:

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

---

1. Whether Press Reporters may be allowed to see 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?

Service Tax Appeal No.631/08

CCE, Meerut-I ...Appellant

Vs.

M/s.Map Enterprises ...Respondent

Service Tax Appeal No.632/08

CCE, Meerut-I ...Appellant

Vs.

M/s.Nidhi Enterprises ...Respondent

Service Tax Appeal No.633/08

CCE, Meerut-I ...Appellant

Vs.

M/s.Kabir Enterprises ...Respondent

Service Tax Appeal No.634/08

CCE, Meerut-I ...Appellant

Vs.

M/s.Raghav Enterprises ...Respondent

Service Tax Appeal No.635/08

CCE, Meerut-I ...Appellant

Vs.

M/s.Plash Services ...Respondent

Service Tax Appeal No.636/08

CCE, Meerut-I ...Appellant

Vs.

M/s.Technica Home Services ...Respondent

Service Tax Appeal No.637/08

CCE, Meerut-I ...Appellant

Vs.

M/s.Anu Enterprises ...Respondent

Service Tax Appeal No.638/08

CCE, Meerut-I ...Appellant

Vs.

M/s.Ghanshyam Enterprises ...Respondent

Service Tax Appeal No.677/08

M/s. Anu Enterprises ...Appellant

Vs.

CCE, Meerut-I ...Respondent

Service Tax Appeal No.678/08

M/s. Technica Home Services ...Appellant

Vs.

CCE, Meerut-I ...Respondent

Service Tax Appeal No.679/08

M/s. Raghav Enterprises ...Appellant

Vs.

CCE, Meerut-I ...Respondent

Service Tax Appeal No.680/08

M/s. Plash Services ...Appellant

Vs.

CCE, Meerut-I ...Respondent

Service Tax Appeal No.681/08

M/s. Map Enterprises ...Appellant

Vs.

CCE, Meerut-I ...Respondent

Service Tax Appeal No.682/08

M/s. Kabir Enterprises ...Appellant

Vs.

CCE, Meerut-I ...Respondent

Service Tax Appeal No.683/08

M/s.Nidhi Enterprises ...Appellant

Vs.

CCE, Meerut-I ...Respondent

Service Tax Appeal No.684/08

M/s. Ghanshyam Enterprises ...Appellant

Vs.

CCE, Meerut-I ...Respondent

(Arising out of common Order-in-Appeal No.134-141-CE/MRT-I/08 dated 30.06.2008)

Appearance: Rep. by Shri Anil Kumar, Advocate for the assessees.
Rep. by Shri R.K. Gupta, DR for the Department.

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

Final Order No. ST/A/198 – 213/12-Cus./Dated:22.02.12.

Per. D.N. Panda:

Shri R.K. Gupta, ld. Representative for the Revenue in respect of Sl.Nos. 9 to 16 of cause list says that if the Tribunal comes to conclusion that taxable service was provided by the respondent in those cases, Revenue's appeals shall not survive. Accordingly, we dismiss all the appeals of the Revenue mentioned in those serial numbers. in view of decision made hereinafter.

2. We took up the cases at Sl.No.17 to 24 of cause list. Ld. Counsel submits that it was fairly stated before the Authority below that the appellants in those cases have provided service under the

category of "Business Auxiliary" service provider. Such a contention was affirmed by the ld. Representative bringing to our notice that Revenue granted opportunity of defence to the assessees under the category of "Business Auxiliary Services" as well as "maintenance and repairs services". To this ld. Counsel says that its client shall get benefit of Notification No.14/2004/ST dated 10.09.2004 and Notification N0.6/2005-Customs dated 1.3.2005. According to him individuals are totally exempt from the purview of the service tax when they provided services on behalf of their client. This aspect was not tested by any of the authorities below.

3. Upon hearing extensively both sides in respect of the appeals listed at Sl.Nos.17 to 24 of the cause list, we hold that appellants have provided Business Auxiliary Services. Since the Authorities below have not dealt with exemption notification, we remand those appeals (Sl.Nos. 17 to 24 of cause list) for proper consideration of the claim of the appellants as to exemption benefit granted by the aforesaid two Notifications whether shall be admissible.

4. While disposing of the appeals as above we notice that the demand in these cases are ranging from Rs.15,153/- to Rs.47,118/-. We do not expect small tax payers to suffer by any delayed process. To bring an early solution, the assessees shall appear before Adjudicating Authority within 8 weeks from the date of the receipt of the order and make application for fixation of the date of hearing. If

such an application is made, the Authorities shall proceed expeditiously and pass reasoned and speaking order.

[order dictated & pronounced in open court]

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

Ckp.