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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/1456/2011 - CU[DB] Date **29/05/2012**
ST/S/3076/11

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

To :
M/S CHANDRA METALS LIMITED,
1,2,5,6,7,14,18 & 19 MNNIT INDUSTRIAL ESTATE,
TELIARGANJ, ALLAHABAD (U.P.)

M/S CHANDRA METALS LIMITED, Appellant
Vs
C.C.E ALLAHABAD Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/A/403/ 2012 CU[DB]** dated 22.05.12 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Alongwith Stay Order No ST/S/591/12

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
C.C.E ALLAHABAD
38,M.G.MARG, CIVIL LINES,
ALLAHABAD

2. Adv. / Consult
MR.S.P. OJHA
299, BAGHAMBARI HOUSING SCHEME,
ALLAHPUR, ALLAHABAD, (UP)

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)

IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing : 22.5.2012

Service Tax Stay No. 3076 of 2011 &
Service Tax Appeal No. 1456 of 2011

(Arising out of Order-in-Appeal No. 87/ST/Alld/2011 dated 6.7.2011 passed by the Commissioner (Appeals), Customs, Central Excise & Customs, Allahabad)

M/s Chandra Metals Ltd. Appellants/Applicants

Vs.

CCE, Allahabad Respondent

Appearance

Appeared for Appellant : Shri S.P. Ojha, Consultant

Appeared for Respondent : Shri K.K. Jaiswal, A.R.

CORAM: HON'BLE SHRI D.N. PANDA, JUDICIAL MEMBER
HON'BLE SHRI MATHEW JOHN, TECHNICAL MEMBER

Stay order No. ST/S/591/12-Cus
Final Order No. ST/A/403/12-Cus. dated............

Per D.N. Panda :

Stay application came up for hearing today. Observation of the ld. Adjudicating authority at page 48 of the appeal folder (page-6 of adjudication order) indicates that necessary evidence was led by the appellant to satisfy the authority as to requirement of para-4 of the Circular No. 4/2008 dated 16.10.2008. The said part of circular reads as under :-

"The matter has been examined. Considering the facts and circumstances of the case and in partial modification of the instructions contained in Circular No. B1/6/2005-TRU dated 27.7.2005, it is clarified that the benefit of availment of abatement may also be extended in past cases if the taxpayers produce a general declaration from the GTA to the service has been taken nor the benefit of notification No. 12/2003-ST has been taken by them."

2. Looking into the spirit of the circular as above and also the fact recorded by the ld. adjudicating authority concurred by the ld. first appellate authority in para 5.2 of the appellate order, so also the judgement of Hon'ble High Court of Patna in the case of **CCE Vs. H.T. Media** – 2011 (23) STR 451 (Pat.) and the decision of the Tribunal in the case of **Paliwal Home Furnishing Vs. CST** – 2011 (22) STR 531 (Tri.-Del.), the appeal itself is allowed finding no deviation of fulfillment by appellant to the requirement of circular. Therefore appeal is allowed. So also stay application gets disposed.

(Dictated & pronounced in open Court)

(D.N. Panda)
Judicial Member

(Mathew John)
Technical Member

RM*