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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/1805/2011 - CU[DB] Date **06/06/2012**
ST/S/3773/2011

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

To :
M/S DATAGEN POWER SYSTEMS PVT. LTD.
403, 4TH FLOOR, PARK CENTRA SECTOR-30, NEAR
NH-8, GURGAON (HARYANA)

M/S DATAGEN POWER SYSTEMS PVT. LTD. Appellant

Vs

C.S.T. DELHI Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/A/427/ 2012 CU|DB|** dated 25.05.12 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/636/12

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.V. LAXMIKUMARAN
B-6/10, SAFDARJUNG ENCLAVE,
NEW DELHI-110029

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 : 25.5.2012

Service Tax Stay No. 3773 of 2011 and Service Tax Appeal No. 1805 of 2011

[Arising out of the Order-in-Appeal No. 376/S.tax/D-II/2011 dated 10.10.2011 passed by the Commissioner, Customs & Central Excise (Appeals), New Delhi]

For Approval & Signature :

Hon'ble Shri D.N. Panda, Judicial Member
Hon'ble Shri Mathew John, Technical Member

1.	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	Yes
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
3.	Whether their Whether their Lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	No

Datagen Power Systems Pvt. Ltd. Appellants

Vs.

CST, Delhi Respondent

Appearance:

Appeared for Appellant : Shri Karan Sachdeva, Advocate

Appeared for Respondent : Shri B.L. Soni, D.R.

CORAM: Hon'ble Shri D.N. Panda, Judicial Memaber
Hon'ble Shri Mathew John, Technical Member

Final Order No. ST/A/427/12-Cus dated............
Stay order No. ST/S/636/12-Cus.

Per **D.N. Panda :**

Against denial of the Cenvat credit and recovery thereof followed by interest and penalty, the Appellant came in appeal involving the dispute on the principal point of evidence remained untested before both the authorities below. Disallowance of Cenvat credit involved in this case was Rs.3,22,697/-. Considering such small amount involved, we directed the Appellant to argue the matter so that appeal shall not remain pending in Tribunal.

2. It was submitted on behalf of the Appellant that it could not produce the invoices on the strength of which Cenvat credit was availed. For such reasons, both authorities denied appropriate allowances to the Appellant in respect of Cenvat credit. But the Appellant possesses all documents to satisfy the ld. Adjudicating Authority if remand is made.

3. Shri Soni, ld. DR says that Revenue shall have no difficulty to examine the case afresh if the Appellant comes out with clean hands to support its claim on the strength of admissible evidence.

4. In view of the agreement of both sides as aforesaid, pre-deposit is waived and appeal is disposed of by way of remand to Ld. Adjudicating Authority to examine the contents of relevant ST returns, details of credit intended by the Appellant to be availed and supporting evidence in respect of earning of the Cenvat credit and after considering the averments of the

Appellants before him he shall pass appropriate order granting fair opportunity of hearing.

5. In the result, appeal is disposed of.

(Pronounced in Court)

(D.N. Panda)
Judicial Member

(Mathew John)
Technical Member

RM*