

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066
CUSTOMS APPEAL BRANCH

STAY Application No. : ST/MISC/2031/2012
Appeal No. : ST/1681/2010-CU[DB]

Dated: 09/07/2012

Assistant Registrar
C.E.S.T.A.T. New Delhi
To,
LEADER EXPORTS,
S-3, S-4INDL. AREA, JALANDHAR.

LEADER EXPORTS,

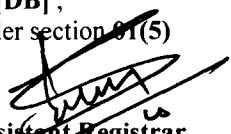
(Appellant)

VS

C.C.E. LUDHIANA

(Respondent)

I am directed to transmit herewith a certified copy of Final Order No. **ST/A/504/2012-CU[DB]**,
Stay/MISC Order No. **ST/MO/269/2012** and dated **28/06/2012** passed by the Tribunal under section 81(5)
of the Finance Act, 1994 relating to Service Tax Act, 1994.


Assistant Registrar
CUSTOMS Appeal Branch

Copy To,

1. Respondent

C.C.E. LUDHIANA

Central Excise House, 'F' Block, rishi
Nagar, Ludhiana 141001 (Punjab)

2. Advocate(s) / Consultant(s):

SUDHIR MALHOTRA.

13-R, Hukam Chand Colony, Near D.A.V
College, Jalandhar

3. C.D.R

4. Bar Association, CESTAT, New Delhi

5. Director Publications, Customs, Excise. I.P. Estate, New Delhi

6. M/s Centax Publications 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

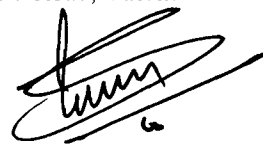
9. Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Above Star India Bazar, Satellite Road,
Ahmedabad-15

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. Gaurd File


Assistant Registrar
CUSTOMS Appeal Branch

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.

DIVISION BENCH

Court No.2

ST/Misc/2031/2012 in Appeal No.ST/1681/2010

(Arising out of Order-in-Appeal No.199/CE/Ldh/2010
dt.20.08.2010 passed by CCE(Appeals), Chandigarh)

Date of Hearing/decision: 28.06.2012

M/s.Leader Exports

Appellant

Vs

CCE, Ludhiana

Respondent

Present for the Appellant: Shri Sudhir Malhotra, Advocate
Present for the Respondent: Shri K.P.Singh, SDR

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

Hon'ble Mr.Mathew John, Technical Member

Final ORDER NO. ST(A) 504/12-Cus

Misc order No. ST(M) 269/12-Cus

PER: D.N.PANDA

Though this matter was fixed for extension of operation of stay order, we find that appeal being on a narrow compass there is no point to keep the appeal pending allowing miscellaneous application.

2. It is a case of both sides that the commission paid for services received from outside India was not liable to tax prior to 18.04.2006. In such circumstance there shall not be liability. Thereafter appellant has said to have deposited tax amount due (subject to verification).

2. In view of above, MA has become infructuous and rejected.

3. Secondly, learned Counsel further says that commission paid subsequent to amendment of law for the service provided prior to 18.04.2006, the appellant shall not liable to pay tax on such service as recipient thereof. If such is factual position from record, the authority shall re-compute liability excluding such payment from total liability, if any, since incidence of levy ^{is date of} providing of service irrespective of date of receipt of payment for service provided.

4. In view of debatable position of law persisted, there shall not be penalty.

5. Appeal is allowed to the extent indicated above.

(Pronounced in the open court)

(D.N.PANDA)
JUDICIAL MEMBER

(MATHEW JOHN)
TECHNICAL MEMBER

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