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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/594/2008-CU[DB]

Dated: **19/07/2012**

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

N.V. MARKETING PVT. LTD.
E-217, GREATER KAILASH-I, FIRST
FLOOR, NEW DELHI-110048.

N.V. MARKETING PVT. LTD. (Appellant)

VS

C.S.T. DELHI (Respondent)

I am directed to transmit herewith a certified copy of Final Order No. **ST/A/526/2012-CU[DB]**, dated **04/07/2012** passed by the Tribunal under section **01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.**

Assistant Registrar
CUSTOMS Appeal Branch

Copy To,
1. Respondent
C.S.T. DELHI
17-B, I.P. Estate, IAEA House, New
Delhi.

2. Advocate(s) / Consultant(s):
A.K.BATRA & ASSOCIATES
A-36, First Floor, Rajouri Garden, Ring
Road, N Delhi.

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
PRINCIPAL BENCH, NEW DELHI
Court No.II

ST/Appeal No. 594 /2008

(Arising out of order in original No.54/VKG/CST/08 dated 4.6.08 passed by the Commissioner of Customs & Central Excise, New Delhi)

Date of Hearing: 4.7.2012

For Approval and signature:

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

1.	Whether Press Reporters 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 lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	No

M/s N.V. Marketing Pvt Ltd — Appellants

Vs

CST, Delhi — Respondent

Appeared for the Appellant: Shri A.K. Batra, C.A.
Appeared for the Respondent: Shri Sumit Kumar, SDR

Coram: **Hon'ble Mr D.N. Panda, Judicial Member**
Hon'ble Shri Mathew John, Technical Member

Final ORDER No. ST/A/526/12-Cus

Per D.N. Panda:

Shri Batra learned Chartered Accountant submits that the lottery business carried out by appellant was considered by Tribunal while passing the stay order dated 30.4.2009. At that time, the implication of the explanation added to Section 65(19) of the Finance Act, 1994 was considered. It was viewed that the said explanation was like a charging provision introduced with effect from 15.5.08. Pre-deposit was waived to hear the appeal.

2. The a~~ppea~~l period covered by adjudication was 1.7.2003 to 15.11.2003. Tribunal has advantage of reading the law laid down by Apex Court on the subject of implication of an explanation appearing as a substantive provision in Statute book in the case of UOI Vs Martin Lottery Agencies Ltd 2009 (14) STR 593 (SC). It has been held that by an explanation, a substantive law may also be introduced and if such law is introduced, it will have no retrospective effect.

2. The view taken by the Tribunal at the stage of stay hearing holds good and gets support of law declared by Apex Court. Therefore, following the Apex Court decision in the case of Martin Lottery Agencies Ltd (supra), the appeal is allowed.

(Order dictated and pronounced in the open Court.)

(MATHEW JOHN)
Member Technical
MPS*

(D.N. PANDA)
Member Judicial