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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/1679-1680/2011-CU[DB], ST/S/3500-3501/2011

Dated: **20/07/2012**

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

HEM MULTI COMMODITIES PRIVATE LIMITED
210, JAIPUR TOWER, M.I. ROAD,
JAIPUR.

HEM MULTI COMMODITIES PRIVATE LIMITED (Appellant)

VS

C.C.E. JAIPUR I (Respondent)

I am directed to transmit herewith a certified copy of Final Order No. **ST/A/536-537/2012-CU[DB]**, Stay/MISC Order No. and **ST/SO/826-827/2012** dated **27/06/2012** 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.C.E. JAIPUR I
N.C.R.Building, Statue Circle, "C" Scheme, jaipur 302005.

2. Advocate(s) / Consultant(s):
JATIN MAHAJAN,ADV
157, THIRD FLOOR, VINOBHA PURI,
LAJPAT NAGAR, 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

14. M/s Hem Finlease (P) Ltd
203, Jaipur Tower
M.I. Road Jaipur

Assistant Registrar
CUSTOMS Appeal Branch

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Court No.III

Date of Hearing: 27.6.2012

For Approval and signature:

Hon'ble Mrs. Archana Wadhwa, 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

ST/Stay No. 3500/2011
ST/Appeal No.1679/2011

(Arising out of order in appeal No.345/DKV/ST/JPR.1/2011 dated 11.07.2011 passed by the Commissioner of Customs & Central Excise(Appeals), Jaipur)

M/s Hem Multi Commodities Pvt Ltd — Appellant

Vs

CCE, Jaipur — Respondent

ST/Stay No. 3501/2011
ST/Appeal No.1680/2011

(Arising out of order in appeal No.346/DKV/ST/JPR.1/2011 dated 16.08.2011 passed by the Commissioner of Customs & Central Excise(Appeals), Jaipur)

M/s Hem Finlease Pvt Ltd — Appellant

Vs

CCE, Jaipur — Respondent

Appeared for the Appellant: Shri Jatin Mahajan, Advocate
Appeared for the Respondent: Shri Amresh Jain, SDR

Coram: **Hon'ble Mrs. Archana Wadhwa, Member(Judicial)**
Hon'ble Shri Mathew John, Member (Technical)

Final ORDER No. ST/A/536-537/12-Cus
Stay order No. ST/S/826-827/12-Cus

Per Mathew John:

In Appeal No. ST/1679/2011, there is a confirmed demand of Rs. 11,94,555/-. The learned Commissioner (Appeals) ordered for a deposit of Rs. 6 lakhs as a condition for admission of appeal before him.

2. In Appeal No. ST/1680/2011, there is a confirmed demand of Rs. 44,56,382/-. In this case, Commissioner (Appeals) ordered pre-deposit of Rs. 20 lakhs as a condition for admission of appeal before him. Since the appellants did not make such pre-deposits, the Commissioner (Appeals) rejected the appeals.

3. The Counsel for appellants submits that the Tribunal vide final order No ST/A 363-366-/12-Cus dated 7.5.12, has already decided that in case of turnover charges, stamp duty, Sebi fees and DEMAT charges in the case of services provided by stock broker will not form part of the value of service. He argues that the same ratio will apply in the appellant's case also who is acting as a member of Multi Commodity Exchange. Further he points out that in the case of V.SAT charges collected from customers, stay has been granted by the Tribunal in Stay Order No ST/S 439-442/12-Cus dated 17.4.12. Therefore, he prays that there is no case for asking for any pre-deposit for hearing of these appeals. He requests that the matter may be sent to Commissioner (Appeals) for deciding the issue on merits without insisting on pre-deposits.

4. Considering the decisions already given by the Tribunal, we are of the view that pre-deposit of dues arising from the impugned orders can be waived for admission of the appeals before the Commissioner (Appeals). We order accordingly and direct the Commissioner

(Appeals) to decide the issue on merits without insisting on pre-deposits.

5. Accordingly stay petitions and appeals before this Tribunal are disposed of. We make it clear that this Tribunal has not taken any final view in the matter except in the case of charges of the type considered in the Final Order dated 7.5.12 referred supra.

(Order dictated and pronounced in the open Court.)

(MATHEW JOHN)
Member (Technical)
MPS*

(ARCHANA WADHWA)
Member (Judicial)