6/

TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Mail : cestat08@gmail.com

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/Stay/3416/2012
Appeal No. : ST/2688/2012-CU[DB]

Dated: **24/09/2012**

Assistant Registrar
C.E.S.T.A.T. New Delhi
To,
PIVOT MULTIFAR INDUSTRIAL SERVICES LTD
B-321-323, IIND FLOOR, OPP PNB
NEHRU GROUND, NIT, FARIDABAD-121001

PIVOT MULTIFAR INDUSTRIAL SERVICES LTD (APPELLANT)

VS

C.S.T.-Service Tax - Delhi (Respondent)

I am directed to transmit herewith a certified copy of Final Order No. **ST/A/603/2012-CU[DB]** , Stay Order No. **ST/SO/985/2012** and dated **17/09/2012** 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.-Service Tax - Delhi
MG MARG... IP ESTATE... 17-B... IAEA HOUSE...I P ESTATE, DELHI,110002

2. Advocate(s) / Consultant(s):
RAKESH CHITKARA,ADVOCATE
181-A,POCKET-B,MAYUR VIHAR-2, PHASE-2,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. Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Ameer Pet, Hyderabad – 500038
13. Office Copy
14. Gaurd File

Assistant Registrar
CUSTOMS Appeal Branch

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

Service Tax Stay Appn. No.ST/S/3416/2012 in Service Tax Appeal No.ST/2688/2012

[Arising out of Order-in-Original No.32/AKM/CST(Adj.) 2012 dated 28.05.2012 passed by the Commissioner (Adj.), Service Tax, Delhi].

M/s.Pivot Multifar Industrial Service Ltd. ...Appellant

Vs.

Commissioner of Service Tax, Delhi. ... Respondent

Present for the Appellant : Shri.Rakesh Chitkara, Advocate,
Present for the Respondent : Shri.Nagesh Pathak,/DR

Coram: HON'BLE MR.D.N.PANDA, JUDICIAL MEMBER
HON'BLE MR. MATHEW JOHN, TECHNICAL MEMBER

Date of Hearing: 17.09.2012

Stay **ORDER NO.** ST/S/985/12 **DATED:** ___________
Final order No. ST/A/603/12-Cus.

PER: D.N.PANDA

Ld. Counsel fairly states that the litigation shall come to an end, if there is no insistence of penalty under section 76 of Finance Act 1994, since the option to pay 25% of penalty under section 78 of the said Act has been exercised.

2. In view of the aforesaid submission and the appeal argument being confined to penalty aspect as indicated above, the appeal is dismissed in so far as the tax demand and

interest is concerned. So far as penalty under section 76 is concerned, we do not consider that the appellant should undergo hardship under both the provisions that is under section 76 and 78 of Finance Act 1994. Therefore, penalty under section 76 is waived, limiting the penalty under section 78 to 25% of the tax demand in view of the option granted by ld. Commissioner (Appeals). The appellant says that it has already paid the penalty under section 78 to the extent of Rs.4.00 Lakhs. Since the tax demand is Rs.12,99,085/-, 25% thereon shall be collectible towards penalty and excess amount collected shall be refundable. With the aforesaid observations and directions, the stay application is disposed and appeal is disposed, limiting relief to the extent indicated above.

[Dictated & Pronounced in the open Court].

(D.N.PANDA)
JUDICIAL MEMBER

(MATHEW JOHN)
TECHNICAL MEMBER

Anita