20/

TELEGRAM : CEGCANAL | **REGISTERED / AD**
Website : www.cestat.gov.in | **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/224/2012, ST/Stay/225/2012, ST/Stay/226/2012, ST/Stay/227/2012, ST/Stay/228/2012, ST/Stay/614/2012
Appeal No. : ST/105/2012-CU[DB], ST/106/2012-CU[DB], ST/107/2012-CU[DB], ST/108/2012-CU[DB], ST/109/2012-CU[DB], ST/290/2012-CU[DB]

Dated: **08/10/2012**

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

ADARSH CO-OPERATVIE BANK
LTD. (BRANCH: FALNA BRANCH)
H.Q.TEEN BATTI SIROHI,
(RAJASTHAN)

ADARSH CO-OPERATVIE BANK LTD.
(BRANCH: FALNA BRANCH) (Appellant)

VS

C.C.E. JAIPUR II (Respondent)

I am directed to transmit herewith a certified copy of Final Order No. **ST/A/615-620/2012-CU[DB]**, Stay/MISC Order No. **ST/SO/1053-1058/2012** and dated **24/08/2012** 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 II
N.C.R.Building, Statue Circle, "C"
Scheme, Jaipur 302005.

2. Advocate(s) / Consultant(s):
BIPIN GARG, ADV
B-1/1289-A, VASANT KUNJ

NEW DELHI,
DELHI
110024

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

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
COURT NO. III

Stay Application No.224-228 & 614 of 2012
Service Tax Appeal No.105-109 & 290 of 2012

[Arising out of Order-In-Appeal No.350-355/CB/ST/JPR-II/2011, dated 09.08.11 issued by CCE, Jaipur]

For approval and signature:
Hon'ble Ms. Archana Wadhwa, Judicial Member
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?	No
2	Whether it should 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 Departmental authorities?	Yes

M/s Adarsh Cooperative Bank Ltd. — Appellants
Vs.
CCE, Jaipur-II — Respondent

Coram: Hon'ble Ms. Archana Wadhwa, Judicial Member
Hon'ble Mr. Mathew John, Technical Member

Appearance:
Shri Bipin Garg, Adv. for the Appellant
Shri N.Pathak, DR for the Respondent

Date of Hearing/decision : 24.08.2012

Stay **ORDER NO** ST/S/1053-1058/12-Cus.

Per Ms. Archana Wadhwa: Final order No. ST/A/615-620/12-Cus

All the stay petitions and appeals are being disposed by a common order as the issue involved is identical. Vide impugned order, lower authorities have confirmed demand of service tax on the findings that the appellants were providing banking and financial services to their customers which is leviable to service tax in terms of section 65(12) of Finance Act, 1994. On the other hand, the appellants' contention is that they are cooperative bank and would not fall under the definition of 'banking and other financial services'.

2. The issue was considered by the Tribunal in the case of Madhav Nagrik Sahakari Bank Ltd. Reported as 2012(TIOL)234-CESTAT-Del. After considering the submissions made by both the sides, it was held that the bank run by a cooperative society is required to pay service tax under the category of "banking and other financial services". As such we find that the issue is no more res-integra and stands decided against the appellants in the above referred decision. By following the same, we confirm the demand of service tax in all the appeals.

3. As regards penalties, we note that the Tribunal has upheld the penalties imposed u/s 76 and has set aside the penalties imposed in question. We adopt the same criteria and upheld the penalties imposed u/s 76. The other penalties are set aside. All the stay petitions and appeals are disposed of in above manner.

(Pronounced in the open Court)

(Archana Wadhwa)
Member(Judicial)

(Mathew John)
Member(Technical)

RK-I