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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

STAY Application No. : ST/Stay/1163/2012
Appeal No. : ST/493/2012-CU[DB]

Dated: **18/10/2012**

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

Baba Finance Company
Sco 87, 2nd Floor Sector 44-c,
Chandigarh.

Baba Finance Company (Appellant)

VS

C.C.E. & S.T.-Chandigarh-i (Respondent)

I am directed to transmit herewith a certified copy of Final Order No. **ST/A/640/2012-CU[DB]**, Stay/MISC Order No. **ST/SO/1124/2012** and dated **01/10/2012** 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. & S.T.-Chandigarh-i
CENTRAL REVENUE BUILDING,
SECTOR 17-C,
CHANDIGARH
160017

2. Advocate(s) / Consultant(s):
Vikrant Kackria
509, Sec-7,
Panchkula,
Haryana

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

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing : 1.10.2012

Service Tax Stay No. 1163 of 2012 and Service Tax Appeal No. 493 of 2012

[Arising out of the Order-in-Appeal No. 23/CE/Appl/CHD-I/2011 dated 16.2.2012 passed by the Commissioner (Appeals), Central Excise & Service Tax, Chandigarh]

For Approval & signature:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Mathew John, Member (Technical)

1.	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
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 Whether their Lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	Yes

M/s Baba Finance Company Appellant

Vs.

CCE, Chandigarh Respondent

Appearance:

Appeared for Appellant : Shri Vikrant Kackaria, Advocate

Appeared for Respondent : Shri V.P. Batra, A.R.

CORAM: Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Mathew John, Member (Technical)

Stay order No. ST/S/1124/12-Cus
Final Order No. ST/A/640/12-Cus dated............

Per **Archana Wadhwa :**

After hearing both the sides, we find that the Commissioner (Appeals) has dismissed the appeal for non-compliance with the stay order passed by him vide which he had directed the applicant to deposit the entire amount of service tax of Rs.10,78,567/-.

2. After hearing both the sides, we find that the applicant is engaged in preparation of documents in respect of loans procured by the clients of ICICI bank or CITI Bank. Revenue by entertaining a view that he has provided services under the category of 'business auxiliary service', raised the demand against him, by way of issuance of a Show Cause Notice dated 21.10.2009 for the period 2004-08. The said demand stand confirmed by the original adjudicating authority along with imposition of penalties.

3. Ld. Advocate appearing for the appellant submits that the issue i.e. whether preparation of such loan documents would amount to ~~provide~~ providing services falling under the category of 'business auxiliary services' has been the subject matter of various decisions. It stands held in the case of **S.R. Kalyanakrishnan Vs. CCE** – 2008 (9) STR 255, **R.V. Management Vs. CST** – 2008 (10) STR 307 and **Wings Group of Companies Vs. CST** – 2008 (11) STR 63, that such services are taxable under the category of 'business support service'. As such, he submits that the issue was not free from doubt and the entire demand stands confirmed against them by invoking longer period of limitation.

4. However, he submits that a portion of the demand stands raised against them under the category of Real Estate Agency Services and the demand in this respect is to the tune of Rs.1.90 lakhs, which he ~~has~~ is ~~a~~lready to deposit.

5. As the issue in respect of preparation of loan documents stands settled by the precedent decisions of the Tribunal, we direct the applicant to deposit an amount of Rs.2.00 lakhs (Rupees Two lakhs) within a period of eight weeks from today and report compliance to Commissioner (Appeals), who would decide the appeal on merits. Stay petition as also appeal get disposed of in the above manner

(Dictated & pronounced in open Court)

(Archana Wadhwa)
Member (Judicial)

(Mathew John)
Member (Technical)

RM*