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REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066
CUSTOMS APPEAL BRANCH

Dated: **05/12/2012**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **ST/A/735/2012-CU[DB]** dated **21/11/2012**

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section **01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.**

Asstt. Registrar(CUSTOMS Appeal Branch)

	Application	Appeal	Name and Address of Appellant
1	ST/Stay/346/2012	ST/161/2012	**BALAJI TIRUPATI ENTERPRISES,** D-6, INDUSTRIAL ESTATE, BHOJIPURA, BAREILLY. (U.P.)
			Name and Address of Respondent
2			**C.C.E. MEERUT II** Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)

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Copy To

3Advocate(s) / Consultant(s):

Kapil Vaish
B-51, 95,
Butler Plaza, Civil Lines,
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Uttar Pradesh

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4 Bar Association, CESTAT, Delhi

5 Director Publications, Customs, Excise. I.P. Estate, Delhi

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, 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, Satellite Road, Ahmedabad-15

10 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

11 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

12 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

13 C.D.R. **14** Office Copy **15** Guard File

Asstt. 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 : **21.11.2012**

Service Tax Appeal No. 161 of 2012

(Arising out of Order-in-Original No. 05/Comm/M-II/2011-12 dated 31.10.2011 passed by the Commissioner, Customs & Excise, Meerut)

M/s Balaji Tirupati Enterprises   Appellant

Vs.

CCE, Meerut-II   Respondent

Appearance

Appeared for Appellant : Shri Kapil Vaish, C.A.

Appeared for Respondent : Shri Pramod Kumar, D.R.

CORAM: HON'BLE SHRI D.N. PANDA JUDICIAL MEMBER
HON'BLE SHRI MATHEW JOHN, TECHNICAL MEMBER

Final Order No. ST/A/735/12-C dated............

Per D.N. Panda

Our attention was drawn to the terms of works contract of repair of transformers executed with the power supply authorities in terms of a sample work order at page 57 of the appeal folder. That indicates that both parties to the contract were conscious of the terms which involved both sales and service. The composition of the goods used for repair contract of transformer is patently clear from the table depicted at page 58 of the appeal folder exhibiting the work order.

Finance Act, 1994 is not a Commodity Taxation Law. As a result of which the goods which were deemed to be sold in the execution of works contract deal shall not enter into the purview of the levy of the service tax. What that is intended by Finance Act, 1994 is levy of service tax on the taxable service provided.

2. We had occasion to hear Revenue's appeal in the case of **CCE Vs. M/s Kailash Transformers** vide Final Order No. ST/A/402/12-Cus dated 23rd May 2012 on the same subject. At that time it was noticed by us the manner how the parties operated with the understanding of sale of goods as well as service provided to effectuate the contract. There is nothing available on record to appreciate that the present case is different from the case aforesaid. Therefore it is difficult to bring inconsistency to our decision for which appeal is allowed.

(Dictated & pronounced in open Court)

(D.N. Panda)
Judicial Member

(Mathew John)
Technical Member

RM