FAX : 011-26108426 REGISTERED / AD

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

Dated: **27/12/2012**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **ST/A/750/2012-CU[DB]**, Stay/MISC Order No. **ST/SO/1359/2012** and dated **18/12/2012**

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/4798/2012	ST/3809/2012	**Aditi Publicity** 546, Sector 8,huda, AMBALA CITY, HARYANA. 134003
			Name and Address of Respondent
2			**C.C.E. & S.T.-Panchkula** SCO 407-408, SECTOR 8, PANCHKULA 134119

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Copy To

3 Advocate(s) / Consultant(s):

BHARAT BHUSHAN,CONSULTANT
708 AMBA TOWER, D C CHOWK
COMMERCIAL
COMPLEX,SECTOR 9, ROHINI, N
DELHI-85

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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 AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI,
PRINCIPAL BENCH NEW DELHI

Date of Hearing/Decision: 18.12.2012

Service Tax Stay Application No.4798 of 2012 in
ST/3809 of 2012

[Arising out of Order-in-Appeal No.309/SVS/PKL/2012 dated 28.08.2012 passed by the Commissioner of Central Excise (Appeals), Gurgaon).

M/s. Aditi Publicity — Appellant

Vs.

CCE, Panchkula — Respondent

For approval and signature:

Hon'ble Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Rakesh Kumar, Member (Technical)

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1. Whether Press Reporters may be allowed to see 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

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Appearance: Rep. by Shri Bharat Bhusan, Consultant for the appellants.
Rep. by Ms. Shweta Bector, DR for the respondent.

CORAM: Hon'ble Smt. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Rakesh Kumar, Member (Technical)

Final Order No. ST/A/750/12-Cus /Dated: 18.12.2012.
Stay order No. ST/S/1359/12-Cus

Per Archana Wadhwa:

After dispensing with the condition of pre-deposit of dues, we proceed to decide the appeal itself inasmuch as we find that the impugned order stands passed by the Commissioner (Appeals) in gross violation of principle of natural justice.

2. On going through the impugned order, we find that there is no mention of any personal hearing having been granted to the appellant by the Commissioner (Appeals). Ld. Advocate, however, fairly agrees that two opportunities of personal hearing were given by the predecessor of the Commissioner (Appeals) which were duly attended by the appellant. The present Commissioner (Appeals), who passed the impugned order, fixed one date of personal hearing as 1.8.2012, which was sought adjourned by the appellant. Thereafter, no hearing was fixed.

3. We find that the grant of personal hearing is a matter of principles of natural justice and is not an empty formality. In the absence of such opportunity having been offered to the appellant, their defence does not become available to the appellate authority deciding the matter. It was obligatory on the part of the Commissioner (Appeals) to grant hearing facility to the appellant and in case adjournment request was not exceeded by him to intimate the appellant accordingly. Inasmuch as the impugned stands passed in violation of principles of natural justice, we set aside the same and the matter is remanded back to the Commissioner (Appeals) for fresh decision. Needless to say that the appellant would be afforded an effective opportunity of personal hearing before the matter is decided.

(Archana Wadhwa)
Member (Judicial)

(Rakesh Kumar)
Member (Technical)

Ckp.