IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI

ST/00115/2008

[Arising out of Order-in-,Appeal No.11/2008 – (SLM) (ST), dated 10.03.2008 passed by the Commissioner of Central Excise (Appeals), Salem]

M/s. PARANTHAMAN SPINNING & WEAVING MILLS PVT. LTD. — APPELLANT

Versus

COMMISSIONER OF CENTRAL EXCISE, SALEM — RESPONDENT

ST/00399/2011

[Arising out of Order-in-,Appeal No.144/2010 S.T. [SLM], dated 15.12.2010 passed by the Commissioner of Central Excise (Appeals), Salem]

M/s. PARANTHAMAN SPINNING & WEAVING MILLS PVT. LTD. — APPELLANT

Versus

COMMISSIONER OF CENTRAL EXCISE, SALEM — RESPONDENT

Appearance:

For the Appellant — Shri T.R. Ramesh, Adv.
For the Respondent — Shri L. Paneerselvam, AC (AR)

CORAM:

Hon'ble Shri D.N. Panda, Judicial Member
Hon'be Shri Madhu Mohan Damodhar, Technical Member

Date of hearing/decision **06-03-2017**

FINAL ORDER NOs. 40453- 40454/2017

Per D.N. Panda:

Although, Revenue brought the appellant in the taxing entry 65(105)(zzh) of the Finance Act, 1994 read with definition of Technical Services appearing under section 65 (106) thereof, the show-cause notice does not whisper as to what was the service provided by the

Customs, Excise & Service Tax Appellate Tribunal appellant. Unless, the nature of service is brought to the show-cause notice, the noticee does get an opportunity of defence. The notice dated 03.08.2006 has only depicted the law and not at all as to what was the services provided by the appellant. That demonstrates that there is no basis in show-cause notice to proceed for adjudication against appellant. This reason alone is enough to grant relief to appellant following the ratio laid down in the following cases:

(i) *Commissioner of Central Excise, Bangalore Vs Brindavan Beverages (P) Ltd.* reported in *2007 (213) E.L.T. 487 (S.C.).*

(ii) *Commissioner of Central Excise, Nagpur Vs Ballarpur Industries Ltd.* reported in *2007 (215) E.L.T. 489 (S.C.).*

(iii) *Precision Rubber Industries (P) Ltd. Vs Commissioner of Central Excise, Mumbai* reported in 2016 (334) E.L.T. 577 (S.C.).

(iv) *Commissioner Vs Roy Francies* reported in *2008 (232) E.L.T. A.27 (S.C.).*

2. In the result, appeal is allowed.

(Dictated and pronounced in open court)

09/03/2017

(MADHU MOHAN DAMODHAR)	(D.N. PANDA)
TECHNICAL MEMBER	JUDICIAL MEMBER

8/3/2017

ksr

Customs, Excise & Service Tax Appellate Tribunal

प्रमाणित प्रति / Certified True Copy

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सहायक पंजीकार / Asst. Registrar
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चेन्नै / Chennai