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

To

Dated: **30/11/2015**

Appellant as per address in table below
Respondent as per address in table below

Final Order No. **ST/A/53532/2015-CU[DB]** dated **05/11/2015**

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/529/2009	C.C.E. INDORE Manik Bagh Palace, Post Box No. 10, Indore 452001 (M.P.)
			Name and Address of Respondent
2			NATIONAL STEEL & AGRO INDUSTRIES LTD. GHATA BILLOD,DISTT. DHAR (M.P.)

Copy To
3Advocate(s) / Consultant(s):

V. Lakshmi Kumaran
5, Jangpura Extension,
Link Road,
New Delhi,
Delhi-110014

4 Additional Party's Name & Address :
5 Bar Association, CESTAT, Delhi
6 Director Publications, Customs, Excise. I.P. Estate, Delhi
7 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3
8 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17
9 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005
10 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15
11 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
12 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070
13 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38
14 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082
15 C.D.R. 16 Office Copy 17 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/Order : 5.11.2015

Appeal No. ST/529/2009-CU(DB)

(Arising out of Order-in-Appeal No. IND-I/82/09 dated 26.3.2009 passed by the Commissioner (Appeals), Customs & Central Excise, Indore)

For Approval & Signature :

Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. R.K. Singh, 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?	
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3.	Whether their Lordships wish to see the fair copy of the order?	
4.	Whether order is to be circulated to the Department Authorities?	

CCE, Indore Appellant

Vs.

M/s National Steel & Agro Industries Ltd. Respondent

Appearance:

Shri R.K. Mishra, D.R. - for the Appellant

Shri Vivek Sharma, Advocate - for the Respondent

Coram : Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. R.K. Singh, Member (Technical)

F. Order No. 53532/2015

Per **R.K. Singh :**

Revenue is in appeal against the order in appeal dated 26.3.2009 which sustained the sanction of refund of Rs.4,56,056/-

for the period Jan, 2008 to March 2008 in terms of Notification No. 41/2007 dated 6.10.2007. Revenue has contended that :

(i) The issue of time bar has not been properly considered by Commissioner (Appeals) inasmuch as the refund claim was not filed within the prescribed time before the proper jurisdictional Deputy Commissioner/Assistant Commissioner of Customs.

(ii) The refund of service tax paid on LDD and TSC charges paid by the respondent to CONCOR for keeping a loaded container in ICD beyond the initial free period did not pertain to GTA service but pertained to storage and warehousing service while refund has been sanctioned treating the same as part of GTA service.

2. Ld. Advocate for respondent stated that both the contentions of Revenue have been dealt with by the lower authorities.

3. We have considered Revenue's contentions. We find that the issue of sanction of refund claim of service tax paid on LDD & TSC charges has been discussed by Commissioner (Appeals) citing CBEC Circular 104/07/2008-ST wherein it has been clarified that such storage/ temporary warehousing facility is a part and parcel of Goods

Transport Agency service. Further as has been observed by Commissioner (Appeals) the respondent had first filed refund claim within 60 days from the end of relevant quarter before Assistant Commissioner, Central Excise Division, Indore who after considerable period advised that the claim should be filed before Assistant Commissioner of Central Excise of another Division which the respondent did on 10.6.2008. In these circumstances, it is not unreasonable on the part of lower authorities to treat the refund claim as having been filed with Revenue within the prescribed period of two months from the end of the relevant quarter. In the case of ***CST Mumbai Vs. Reliance Communication*** – 2008 (11) STR 258, such resubmitted claim was treated to be in continuation of earlier claim and therefore not hit by time-bar.

4. In the circumstances, we do not find any such infirmity in the impugned order as to warrant appellate interference. Therefore the appeal is dismissed.

(Justice G. Raghuram)
President

(R.K. Singh)
Member (Technical)

RM