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: **22/04/2015**

To

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

Final Order No. **ST/A/51187-51190/2015-CU[DB]** dated **26/03/2015**

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/400/2009	**SHREE RAJASTHAN SYNTEX LTD.** SIMALWARA ROAD, DUNGARPUR, RAJASTHAN.
2	ST/401/2009	**SHREE RAJASTHA SYNTEX LTD.** SIMALWARA ROAD, DUNGARPUR, RAJASTHAN.
3	ST/407/2009	-C.C.E. JAIPUR II N.C.R.Building, Statue Circle, "C" Scheme, Jaipur 302005.
4	ST/408/2009	-C.C.E. JAIPUR II N.C.R.Building, Statue Circle, "C" Scheme, Jaipur 302005.

	Name and Address of Respondent
5	SHREE RAJASTHAN SYNTEX LTD. SIMALWARA ROAD, DUNGARPUR (RAJASTHAN),,
6	SHREE RAJASTHAN SYNTEX LTD. SIMALWARA ROAD, DUNGARPUR (RAJASTHAN),,

P.T.O

7 -C.C.E. JAIPUR II
N.C.R.Building, Statue Circle,
"C" Scheme, Jaipur 302005.

8 -C.C.E. JAIPUR II
N.C.R.Building, Statue Circle,
"C" Scheme, Jaipur 302005.

Other Appellants and Respondents as per Annexure

Copy To

9Advocate(s) / Consultant(s):

Shri.V.LaxmiKumaran, Adv
5, Jangpura Extension Link Road,
New Delhi-110 014

10 Additional Party's Name & Address :

11 Bar Association, CESTAT, Delhi

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

13 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

14 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

15 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

16 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15

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

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

19 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad - 38

20 C.D.R. **21** Office Copy **22** 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 : 26.3.2015

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?	

Appeal No. ST/400-401/2009-CU(DB)

M/s Shree Rajasthan Syntex Ltd. — Appellant

Vs.

CCE, Jaipur-II — Respondent

Appeal No. ST/407-408/2009-CU(DB)

[Arising out of common Order-in-Appeal No. 10-11(DK)ST/JPR-II/2009 dated 24.2.209 passed by the Commissioner of Central Excise (Appeals), Jaipur-II]

CCE, Jaipur-II — Appellant

Vs.

M/s Shree Rajasthan Syntex Ltd. — Respondent

Appearance:

Shri Anusha Pandey, Advocate - for the Assessee

Shri B.B. Sharma, D.R. - for the Respondent

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

F. Order No. 51187-51190/2015

Per **R.K. Singh :**

The appellant (assessee) filed these appeals against Order-in-Appeal No. 10-11(DK)ST/JPR-I/2009 dated 24.2.2009 in terms of which service tax demands relating to the amounts of commission paid to the overseas agents were confirmed against it under the provisions of Rule 66A of the Finance Act 1994 as recipient of service on the ground that the said service tax had to be paid in cash and payment thereof by utilising the Cenvat credit was not allowed. The Commissioner (Appeals) sustained the respective orders-in-original confirming the impugned demands except to the extent of allowing the appellants the cum tax benefit.

2. The appellant has contended that the issue whether such service tax can be paid from Cenvat credit is no longer res integra having been decided in its favour in several judgements.

3. Revenue is in appeal against the impugned Order-in-Appeal that the entire amount of commission paid has to be taken as assessable value of service received and there is no ground to extend the cum tax benefit to the appellant - assessee.

4. We have considered the contentions of both sides. We find that in the appellant/assessee's own case – 2011 (24) STR 670 (Tri.-Del.), it was held that for the period prior to Notification No. 10/2008-CE (NT), the question whether Cenvat credit can be utilised

for payment of service tax on GTA stands settled in favour of the assessee by various decisions of the Tribunal and there was no restriction for utilisation of Cenvat credit by manufacturing unit towards payment of service tax on GTA as output service provider. In the case of ***Kansara Modler Ltd. Vs. CCE, Jaipur-II*** – 2013 (32) STR 209 (Tri.-Del.), it was held that Cenvat credit can be utilised for payment service tax payable under reverse charge mechanism in respect of service received from abroad. Similarly Karnataka High Court in the case of ***CST, Bangalore Vs. Aravind Fashions Ltd.*** – 2012 (25) STR 583 (Kar.), held that though assessee was recipient of Intellectual Property Service from abroad they were deemed to be provider of service liable to pay service tax and therefore such service tax can be discharged by using Cenvat credit.

5. In the light of these judgements, the demands confirmed against the appellant/assessee do not survive. In such a situation, the Revenue's appeal contesting the cum tax benefit becomes infructuous. Accordingly, the appellant/assessee's appeals are allowed and the respective Revenue's appeals are dismissed.

(Justice G. Raghuram)
President

(R.K. Singh)
Member (Technical)

RM