REGISTERED / AD

FAX : 011-25108426

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

Dated: 30/10/2015

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **ST/A/53290/2015-CU[DB]** dated **09/10/2015**

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/CROSS/51968/2015	ST/531/2009	C.C.E. INDORE Manik Bagh Palace, Post Box No. 10, Indore 452001 (M.P.)
			Name and Address of Respondent
2			DEEPAK SPINNERS LTD. VILLAGE-PAGARA, GUNA ASHOK NAGAR ROAD, GUNA. (M.P.),

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

J. P. Associates,
320-TULSI VIHAR,
NEAR S.B.I. ZONAL
OFF. CITY CENTER,
GWALIOR-474011
MADHYA PRADESH

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)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. I

Date of hearing / decision : 09.10.2015

For Approval and 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 26 of the CESTAT (Procedure) Rules, 1982?	
2	Whether it should be released under Rule 26 of 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 Departmental authorities?	

Service Tax Appeal No. 531 of 2009
(Arising out of order-in-appeal No. IND-I/119/2009 dated 22.04.2009 passed by the Commissioner (Appeals-I) Customs & Central Excise, Indore).

CCE, Indore Appellant

Vs.

M/s Deepak Spinners Limited Respondent

Appearance:

Ms. Suchitra Sharma, Commissioner (AR) for the appellant-Revenue
Sh. Mayank Garg, Advocate for the appellant - assessee

Coram:

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

Final Order No. 53290/2015

Per: R. K. Singh:

Revenue has filed this appeal against order-in-appeal dated 22.04.2009 on the ground that the Commissioner (Appeals) had allowed payment of service tax on the GTA service from cenvat credit which is not permitted as GTA service was not appellant's output service and service tax ~~were~~ was payable by the appellant under reverse charge mechanism, while cenvat credit can be utilised for paying service tax on output service. In this regard, we notice that in the appellants' own case reported as ***CCE, Chandigarh vs. Deepak Spinners Ltd. - 2013 (32) STR 531 (H.P.)***, High Court of Himachal Pradesh held that cenvat credit can be utilised for payment of service tax on GTA service. In the case of ***Commissioner vs. Nahar Industrial Enterprises Ltd. – 2012 (25) STR 129 (P&H)***, Punjab & Haryana High Court has also held that cenvat credit can be utilised for payment of service tax on GTA service under reverse charge mechanism. Similar view has been taken by the Delhi High Court in the case of ***CST vs. Hero Honda Motors Ltd. – 2013 (29) STR 358 (Del.)***. Thus, the issue involved in this case is no longer *res integra* and has been settled in appellant's favour. Therefore, we set aside the impugned order and allow the appeal.

(Justice G. Raghuram)
President

(R. K. Singh)
Member (Technical)

Pant