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: **29/09/2014**

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

Final Order No. **ST/A/53745/2014-CU[DB]** dated **18/09/2014**

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/275/09	ST/360/2009	**C.C.E. JAIPUR I** N.C.R.Building, Statue Circle, "C" Scheme, jaipur 302005.
			Name and Address of Respondent
2			**ROHIT SURFACTANTS PVT. LTD.** 10, MIA, ALWAR (RAJASTHAN)

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

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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 & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. III

DATE OF HEARING : 18/09/2014.
DATE OF DECISION : 18/09/2014.

Service Tax Appeal No. 360 of 2009 with CO Application No. 275 of 2009

[Arising out of the Order-in-Appeal No. 20(DK)ST/JPR-I/2009 dated 09/03/2009 passed by The Commissioner (Appeals-I), Customs & Central Excise, Jaipur.]

For Approval and signature :
Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Rakesh Kumar, Member (Technical)

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	:	No
2.	Whether it would 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 Department Authorities?	:	Yes

CCE, Jaipur – I — Appellant

Versus

M/s Rohit Surfactants Pvt. Ltd. — Respondent

Appearance

Shri Sanjay Jain, Authorized Representative (DR) – for the appellant.

Shri A.P. Mathur, Advocate – for the Respondent.

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

Final Order No. 53745/2014 Dated : 18/09/2014

Per. Archana Wadhwa :-

The dispute in the present appeal of the Revenue is in respect of availability of Cenvat credit of service tax paid on the GTA services received for outward transportation of their final product from factory premises to the buyers premises. The Commissioner (Appeals) has granted benefit to the respondents by observing that the sales are on FOR destination basis and value is inclusive of transportation charges incurred up to the destination. He has further observed that he has seen some of the invoices, wherein value has been shown FOR destination. As such, by observing that the assessee remains the owners of the goods till the goods are delivered at the customers premises, the GTA services have to be held as integral part of the manufacture and has to be held as eligible cenvatable input service.

2. Vide the same impugned order Commissioner (Appeals) disallowed the credit of service tax paid on GTA services availed for movement of the goods from depots to the buyers premises. The said part of the Commissioner (Appeals) order was challenged by the assessee and the Tribunal vide its final order No. 953/2011 (SM) dated 15/12/11 allowed the appeal of the assessee.

3. After appreciating the submissions made by both the sides, we find that there is a categorical finding by Commissioner (Appeals) that the sales were on FOR destination basis. The said

finding was arrived at by the appellate authority after examining the invoices. On the contrary Revenue has simplicitor taken a plea that the sales were not on FOR basis, without adducing any evidence and without rebutting the findings arrived at by Commissioner (Appeals). As such, we find no merits in the Revenue's appeal.

4. Otherwise also, the assessee's appeal filed against the same impugned order of Commissioner (Appeals) having been allowed by the Tribunal, the impugned order gets merge with the orders passed by the Tribunal and as such no longer available for challenge. On above grounds, we reject the Revenue's appeal. The Cross Objection application filed by the respondent challenging that part of the impugned order of Commissioner (Appeals), which is against them have become infructuous in as much as ~~they are~~ their independent appeal filed against the said part stand allowed. The same are accordingly disposed of as infructuous.

(Dictated and pronounced in open court)

25/9/14

(Archana Wadhwa)
Member (Judicial)

25/9/14

(Rakesh Kumar)
Member (Technical)

PK