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

Dated: **19/05/2014**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **ST/A/52142/2014-CU[DB]** dated **15/05/2014**

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/469/2007	**C.C.E. JAIPUR I** N.C.R.Building, Statue Circle, "C" Scheme, jaipur 302005.
		Name and Address of Respondent
1	ST/469/2007	**SHAH TECHNICAL CONSULTANT PVT. LTD.** 3RD FLOOR, AVS BUILDING, JAWAHAR CIRCLE, JAIPUR (RAJSTHAN)

Other Appellants and Respondents as per Annexure

Copy To

3Advocate(s) / Consultant(s):

Ms. SUKRITI DAS, Advocate

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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)

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

COURT-I

Date of hearing/decision: 15.5.2014

Service Tax Appeal No.469 of 2007

Arising out of the order in appeal No.108-109(GRM(/ST/ JPR-I/2007 dated 18.5.2007 passed by the Commissioner (Appeals), Customs & Central Excise , Jaipur.

For approval and signature:

Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. Rakesh Kumar, Technical Member

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?	

C.C.E., Jaipur I .. Appellant

Vs.

Shah Technical Consultant Pvt. Ltd. .... Respondents

Appearance:

Present Ms. Suchitra Sharma, A.R. (Jt.CDR) for appellant/Revenue
Present Ms. Sukriti Das, Advocate for the respondents

Coram: Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. Rakesh Kumar, Technical Member

Final Order No.52142/2014

Per Justice G. Raghuram:

Revenue has preferred this appeal against the order passed by the Commissioner (Appeals), Customs and Central Excise, Jaipur dated 18.5.2007, allowing an appeal preferred by the respondent/assessee against the adjudication order dated 24.8.2006 passed by the Joint Commissioner of Central Excise, Jaipur.

2. Proceedings were initiated against the assessee proposing service tax demand of Rs.14,60,386/-, apart from interest and penalties, for having under-reported the gross consideration charged by it for having provided " consulting engineer" service during 2001 to March, 2005. The alleged under-reporting was regarding reimbursement of the expenses incurred by the assessee for having provided "consulting engineer" service during the relevant period. The petitioner is a private limited company registered under the Companies Act, 1956. The primary Authority concluded that reimbursement of the expenses incurred by the assessee on purchase of fixed assets i.e. furniture, office equipment, travelling per diem, production of tenders and reports, photocopying, payment of legal fess etc. are liable to be included in the gross consideration received for having provided the taxable service; that these receipts were not reported and thus under-remittance of tax occurred.

3. The Appellate Authority however granted relief by excluding the expenses reimbursed. Consequently , the appeal of the assessee was allowed.

4. The Karnataka High Court and the Delhi High Court in ***C.S.T., Bangalore vs. Turbotech Precision Engineering Pvt. Ltd.*** - 2010 (18) STR 545 (Kar.) and ***C.C.E.& Service Tax vs. Simplex Infrastructure & Foundry Works*** - 2014 (34) STR 191 (Del.) clearly ruled that prior to 1.5.2006, a company registered under the Companies Act, 1956 was not included within the definition of "consulting engineer" defined in Section 65(31) of the Finance Act, 1994.

5. In the light of the binding precedents, the respondent/assessee is not liable to remit service tax for providing "consulting engineer" service during 2001 to March, 2005 , prior to 1.5.2006.

6. On the analysis above, the appeal by Revenue has no merits and is accordingly dismissed. No costs.

(Justice G. Raghuram)
President

(Rakesh Kumar)
Technical Member

scd/