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: **03/11/2015**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **ST/A/53313/2015-CU[DB]** dated **29/10/2015**

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/270/2008	**NORTHERN COALFIELDS LTD.** CHIEF GENERAL MANAGER (FINANCE),P.O.SINGRAULI COLLIERY,DISTT. SIDHI (M.P.) PIN-486889
		Name and Address of Respondent
2		-C.C.E Bhopal Hoshangabad Road, 48, Administrative Area, Area Hills, Bhopal (M.P.) 462011

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

Akshat Shrivastava,Adv
CHAMBER NO 18,
SUPREME COURT OF INDIA,
NEW DELHI,
DELHI

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-I

Date of hearing/decision: 29.10.2015

Service Tax Appeal No.270 of 2008

Arising out of the order-in-original No.01/Commr/ST/2008 dated 9.1.2008 passed by the Commissioner, Customs, Central Excise , Bhopal.

For approval and signature:

Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. C.J. Mathew, 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?	

Northern Coalfields Limited ... Appellant

Vs.

C.C & C.Ex, Bhopal .... Respondent

Appearance:

Present Shri Akshat Srivastava, Advocate for the appellant
Present Shri Amresh Jain, A.R. for the respondent

Coram: Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. C.J. Mathew, Technical Member

Final Order No. 53313/2015

Per Justice G. Raghuram:

Heard the ld. Counsel for the appellant and the ld. A.R. for Revenue.

2. The appeal is preferred against the adjudication order dated 9.1.2008, confirming demand of service tax of Rs.90,81,301/- along with interest and penalty, as specified therein. The demand is assessed on the premise that the appellant received transport of goods by road service, defined in Section 65(50a) and (50b) read with Section 65(105)(zzp). The period involved is 1.1.2005 to 30.9.2006.

3. During the relevant period the appellant - M/s Northern Coalfields Ltd., Singrauli (M.P.) engaged the services of several transporters for transport of mined coal from coal face to coal stockyards in appellant's own dumpers. From the coal stockyards the coal was loaded into tippers and conveyed to the coal handling plant situate within the mine premises. The tippers were weighed at the NCL weighbridge. At the weighbridge payment slips were generated disclosing relevant particulars such as truck number, gross weight etc. As the truck registration numbers are specific for each transporter, transport services undertaken by each of the contractors is eventually identified and payments were made on this basis. Statements of some other transporters engaged by the appellant were recorded during the process of adjudication which revealed that no consignment notes were generated by the transporter and payments were made only on the basis of particulars generated during weighment.

4. Rejecting the contention of the appellant that the activity falls outside the purview of transport of goods by road services , the impugned order confirmed the demand.

5. The definition of "Goods Transport Agency" in Section 65(50b) clearly specifies that Goods Transport Agency means any person who provides services in relation to transport of goods by road and issues a consignment note by whatever name called. The Explanation under Rule 4B of the Service Tax Rules, 1994 clarifies that consignment note is a document, issued by a goods transport agency against the receipt

of goods for the purpose of transport of goods in a goods carriage and contains other specifiied details.

6. Clearly, as no consignment note as generally understood or delineated in Rule 4B was issued by the transporters to the appellant in the transactions in issue, the classification by the impugned order that appellant received transportation of goods by road service, is unsustainable. Accordingly, the impugned order is quashed. The appeal is allowed. No costs.

(Justice G. Raghuram)
President

(C.J. Mathew)
Technical Member

scd/