

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

Appeal No. ST/260 /2006

Date 08/02/2008

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
THE COMMISSIONER CENTRAL EXCISE, JAIPUR I
NCRB, STATUE CIRCLE, C-SCHEME, JAIPUR

THE COMMISSIONER CENTRAL EXCISE, JAIPUR I

Appellant

M/S NEW INDIA ELECTRIC WORKS

Vs
Respondent

I am directed to transmit herewith a certified copy of Final order No. *St/27/08* Customs dated *29/1/08* passed by the Tribunal under Section 129, (B) of the Customs Act, 1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent

M/S NEW INDIA ELECTRIC WORKS

SHOP NO 105, PALIWAL COMPOUND, CHHAWANI,
KOTA (RAJASTHAN)
324007

2. Adv. / Consult

3. S.D.R.
4. J.C.D.R.
5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, marg. 43, saket, New
7. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301
9. R.Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,
12. Co, Law Institution
13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file


Assistant 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. II

Service Tax Appeal No. 260 of 2006

[Arising out of the Order-in-Appeal No. 14-15 (MPM)/ST/JPR-I/2006 dated 23/03/2006 passed by The Commissioner (Appeals-I), Customs & Central Excise, Jaipur.]

For Approval and signature :

Hon'ble Shri S.S. Kang, Vice President

Hon'ble Dr. T.V. Sairam, 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?
2. Whether it would be released under Rule 27 of :
the CESTAT (Procedure) Rules, 1982 for
publication in any authoritative report or not? } 100
3. Whether their Lordships wish to see the fair :
copy of the order?
4. Whether order is to be circulated to the :
Department Authorities?

CCE, Jaipur – I

Appellant

Versus

M/s New India Electric Works

Respondent

Appearance

Shri R.K. Verma, Authorized Representative (SDR) – for the
appellant.

None – for the Respondent.

CORAM : Hon'ble Shri S.S. Kang, Vice President
Hon'ble Dr. T.V. Sairam, Member (Technical)

DATE OF HEARING : 29/01/2008.

Final Order No. ST/27/08 Dated : 29/1/08

Per. S.S. Kang :-

Heard learned SDR and considered the written submission submitted by the respondent vide letter dated 23rd January 2008.

2. In this case, show cause notice was issued to the respondent for demand of Service Tax on the ground that respondent provided the maintenance and repair service. The Adjudicating Authority confirmed the demand and imposed the penalties. The respondent filed appeal and Commissioner (Appeals) set aside the demand on the ground that the contract in question is only a rate contract other than the maintenance contract.

3. With the written submission, respondent filed the copies of the contract. We have gone through the contract, the contract is for routine/break down and capital maintenance of H.T. Motors and routine and break down maintenance of L.T. Motors. In the schedule of prices, it is also for maintenance of the H.T. Motors. In view of the terms contract, copy of which is produced by the respondent, the contract is not only for repair, it is a maintenance contract and as per the provisions of the Finance Act Maintenance or Repair Service means any service provided by a person under a maintenance contract or agreement or repair in respect of maintenance or repair of goods. In the present case, as service provided under a contract, which is a maintenance contract, therefore, the impugned order is not sustainable, hence set aside. The order passed by the Adjudicating Authority is ^{be} restored. Appeal is allowed.

(Dictated and pronounced in open court)

(S.S. Kang)
Vice President

(Dr. T.V. Sairam)
Member (Technical)