TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

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

Appeal No. ST/63 /2006 Date 07/07/2008

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

To :
M/S HRJ STEELS (P) LTD.
PLOT NO F.12 TO 22 , JASHODHARPUR INDUSTRIAL AREA. KOTDWAR (UA)

M/S JRJ STEELS (P) LTD. Appellant

Vs

C.C.E. MEERUT I Respondent

I am directed to transmit herewith a certified copy of Final order No. ST/106/08 (Custom) dated 2-6-08

passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(Cus.Appeal Branch)

Copy to :
1. Respondent
C.C.E. MEERUT I

2. Adv. / Consult
MR.AK BATRA , CA
G-22 LAJPAT NAGAR PART - III NEW DELHI

3. S.D.R.
4. J.C.D.R.
5. Bar association. CESTAT. New Delhi
6. M/s. Deeparchi Publications, M-93, Marg. 46, Saket. New Delhi 110017
7. M/s Centax Publictions (P) Ltd., 1512-B, Bhishm Pitamah marg. Opp. ICICI Bank of Defence Colony, New Delhi -
8. Excise & Customs cases. B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)
9. Raghuraman's 44-B, Regal Flat.Shipra Suncity. Indirapuram - 201010.Ghaziabad, DT, U.P.
10. Nidheshak publications. I.P.Estate. new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35. West Punjabi Bagh. New Delhi - 110026
12. Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar,Chennai 60017
13. Taxindiaonline.com Pvt.Ltd, B-XI/8183.Vasant Kunj, New Delhi - 110070
14. Office Copy
15. Guard file

Assistant Registrar
(Cus.Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI

COURT – II

SERVICE TAX APPEAL NO. 63 OF 2006

[Arising out of Order-in-Appeal No. 210-CE/MRT-I/2005 dated 2.12.2005 passed by the Commissioner (Appeals), Central Excise & Customs, Meerut-I]

For approval and signature:

Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. 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?	
2.	Whether it would be released under Rule 27 of the 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?	

M/s. HRJ Steels (P) Ltd., Appellants

Vs.

CCE, Meerut-I Respondent

Appearance:

Shri Vikas Khandelwal, C.A. for the appellants,
Shri A.K. Madan, SDR, Departmental Representative, for the Revenue

Coram:

Hon'ble Mr. S.S. Kang, Vice President,
Hon'ble Mr. Rakesh Kumar, Member (Technical)

Date of Hearing: 2nd June, 2008

FINAL ORDER NO. ST/106/08 **dated** 2/6/08

Per S.S. Kang:

Heard both sides.

2. Appellants filed this appeal against the impugned order whereby demand of service tax was confirmed by treating the appellants as clearing and forwarding agent.

3. Case of the Revenue is that as the appellant is procuring orders and passing them to the principal for execution in lieu of commission, hence, the appellants are providing service of clearing and forwarding agent. The Adjudicating authority after relying upon the decision in the case of Prabhat Zarda Factory vs. CCE, reported in 2002 (145) ELT 222 held that the service provided by the appellants is of clearing and forwarding agent.

4. Contention of the appellants is that they are only procuring orders and passing them to the principal for supply of goods and they are only getting commission. Contention is also that the decision of the Tribunal in the case of Prabhat Zarda Factory (supra) is over ruled by the Larger Bench of the Tribunal in the case of Larsen & Tourbro vs. CCE, reported in 2006 (3) STR 321. Contention is that the Larger Bench of the Tribunal held that mere procuring of order for principal by agent on

payment of commission basis would not amount to providing service of clearing and forwarding agent.

5. The Revenue submitted that as the appellants were procuring orders on behalf of the principal and also pursuing the principal for supply of goods and they were also responsible for payment of goods supplied by the principal they should be treated as clearing and forwarding agent. We find that the appellants are only procuring orders on behalf of the principal on commission basis. This issue is now settled by the Tribunal by the Larger Bench in the case of Larsen & Tubro Ltd. (supra). The Tribunal held that mere procuring of order or booking orders on commission basis for the principal would not amount to providing service of clearing and forwarding agent within the meaning of definition of that expression under Section 65(25) of the Finance Act. In view of the above decision of the Tribunal the impugned order is set aside and the appeal is allowed.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

Dated 3rd June, 2008-06-03
RK