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
CUSTOMS APPEAL BRANCH

Appeal No. ST/507 /2006 Date 23/07/2008

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

To :
C.C.E.CHANDIGARH
PLOT NO 19, SECTOR 17-C, CHANDIGARH.

C.C.E.CHANDIGARH Appellant

Vs

M/S BHOJIA CEMENT SERVICES (P)LTD Respondent

I am directed to transmit herewith a certified copy of Final order No. ST/141/08- CUS Dated 23.06.08 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 BHOJIA CEMENT SERVICES (P)LTD
   S.C.O 855, IST FLOOR, NAC, MANIMAJRA, CHANDIGARH.
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. 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
(Customs Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, NEW DELHI
COURT NO. II

Service Tax Appeal No. 507 of 2006-CST Br.

(Arising out of Order-in-Appeal No. 661//CE/CHD/06 dated 31.7.2006 passed by the Commissioner (Appeals) Central Excise, Chandigarh)

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.	

CCE, Chandigarh — Appellant

Vs.

M/s Bhojia Cement Services (P) Ltd. — Respondent

Appearance:
Shri R.K. Verma, DR - For appellant
Shri Atul Gupta, C.S. - For respondent

CORAM:
HON'BLE MR. S.S. KANG, VICE PRESIDENT
HON'BLE MR. RAKESH KUMAR, MEMBER (TECHNICAL)

Date of Hearing: 23.6.2008

Final Order No. ST/141/08 dated 23/6/08

Per S.S. Kang:

Heard both sides.

2. The Revenue filed this appeal against the impugned order whereby the Commissioner (Appeals) held that the respondents are not providing any service of clearing and forwarding agent and respondent is undertaking activity of sales ~~and~~ promotion ~~of~~ and marketing of goods. The respondent entered into two agreements with M/s Grasim Industries Ltd. One agreement is in respect of providing C&F agent service regarding which respondents were paying Service Tax regularly. Show-cause notice was issued for the period 2000-01 to 2003-04 on 23.12.05 on the ground that service of sales promotion and marketing is also clearing and forwarding service, therefore, respondents are liable to pay Service Tax. The adjudicating authority confirmed the demand and Commissioner (Appeals) set aside the demand.

3. Admitted facts are that sales promotion and marketing service came under the scope of Service as business auxiliary service Tax with effect from 1.7.2003 and respondents ~~are~~ have already paid Service

Tax for this period. For the period prior to this, the sales promotion and marketing services which are only on commission basis are not covered under the scope of Service Tax. We have gone through the agreement which is only for getting orders for supply on commission basis only. In these circumstances, we find no infirmity in the impugned order the appeal is dismissed.

(Dictated & pronounced in open Court)

(S.S. KANG)
VICE PRESIDENT

(RAKESH KUMAR)
MEMBER (TECHNICAL)

RM