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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

Appeal No. ST/533 /2006, ST/534/06 Date 22/08/2008

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

To :
HANS CASTING PVT LTD
UNIT II, REGD OFFICE 123/528-A, FACTORY AREA,
FAZALGANJ, KANPUR.

HANS CASTING PVT LTD Appellant
Vs
C.C.E.KANPUR Respondent

I am directed to transmit herewith a certified copy of **Final order No.** ST/216-17/08 Customs dated 16/7/08 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
   C.C.E.KANPUR
   117/7, SARVODAYA NAGAR, KANPUR.
2. Adv. / Consult
   MR.R.SANTHANAM
   C-3/210, JANAK PURI, NEW DELHI - 110 058.
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. Nideshak 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. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15
15. Office Copy
16. Guard file

Assistant Registrar
(Customs Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R.K.Puram, New Delhi-110066.
Principal Bench, New Delhi.

Service Tax Appeal Nos.533 & 534 of 2006

[Arising out of Order-in-Original No.11 & 10/Comm/MP/2006 dt.31.5.06 passed by the Commissioner of Central Excise, Kanpur)

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?	: No
3.Whether their Lordships wish to see the fair copy of the order?	:
4.Whether order is to be circulated to the Department Authorities:	:

M/s. Hans Castings Pvt. Ltd. Appellant

Versus

CCE, Kanpur Respondent

Appearance

Shri R.Santhanam, Adv. for appellant
Sh. B.K.Singh, Authorised Departmental Representative(DR) For respondent

Coram: Hon'ble Mr. S.S.KANG, VICE PRESIDENT
Hon'ble Mr. RAKESH KUMAR, MEMBER TECHNICAL

Final Date of decision: 16.7.08
Order No. ST/216-217/08

Per S.S.Kang:

Common issue is involved, therefore, the appeals are being taken up together. The appellant filed these appeals against the impugned order whereby demand of service tax prior to 1.7.03 was confirmed on the ground that the appellants were providing the service of Clearing and Forwarding Agent.

2. The contention of the appellant is that w.e.f. 1.7.03, service tax was imposed on commission agent. The appellants were paying service tax as provider of commission agent service. The revenue confirmed the demand for the prior period on the ground that the appellants were providing the service of Clearing and Forwarding Agent. The contention is that as per the agreement, the appellants were only procuring order on commission basis and as per the decision of the Larger Bench of the Tribunal in the case of Larsen & Toubro Ltd. vs CCE reported in 2006(3)STR.321 and affirmed by Hon'ble Punjab & Haryana High Court in the case of Commissioner of Central Excise, Jalandhar vs United Plastomers reported in 2008(10)STR.229 held that mere procuring of orders on commission basis not amounted to C&F Agent service.

3. The revenue submitted that as the appellants were procuring order and also assuring the payment, therefore, they are providing the service of Clearing & Forwarding Agent.

4. We find that the appellants are only procuring order on commission basis and this issue is now settled by the Larger Bench of this Tribunal in the case of L&T Ltd.(Supra) and the same has been affirmed by the Hon'ble Punjab & Haryana High Court in the case of CCE, Jalandhar vs United Plastomers(supra), therefore, the impugned orders ~~is~~ are set aside and the appeals are allowed.

Order dictated in the open Court.

(S.S.Kang)
Vice President

(Rakesh Kumar)
Member Technical

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