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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/355 /2007 - CU[DB] Date 03/12/2008

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

To :
C.C.E BHOPAL
HOSHANGABAD ROAD, 48, ADMINISTRATIVE
AREA, AREA HILLS, BHOPAL (M.P.) 462011
C.C.E BHOPAL Appellant
Vs
M/S CROMPTON GREAVES LTD. (AMT PLANT) Respondent

I am directed to transmit herewith a certified copy of **Final order No.** ST/374/08 **CU[DB]** dated 24.11.08 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 CROMPTON GREAVES LTD. (AMT PLANT)
30, NEW INDL. AREA NO. 1, MANDIDEEP, DISTT. RAISEN, M.P.
2. Adv. / Consult : Sh. Randhir Singh, Adv
World Trade Centre, 37 LG Floor
Barakhamba Avenue, 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 - 3
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
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 AND SERVICE TAX APPELLATE TRIBUNAL, R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH NEW DELHI, COURT NO.I

Appeal No. 355 of 2007
[Arising out of Order-in-Appeal No. 120-ST/BPL/2006 dated 30.3.2007 passed by the Commissioner, Central Excise, Bhopal]

Date of Hearing/Decision : 24.11.2008

For approval and signature:

Hon'ble Ms. Jyoti Balasundaram, Vice President
Hon'ble Mr. M. Veeraiyan, 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.	No
2	Whether it should 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?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

CCE, Bhopal — Appellant
[Mr. L.B. Yadav, DR for the Appellant]

Vs.

M/s Crompton Greaves Ltd., — Respondent
[Mr. Randhir Singh, Advocate for the Respondent]

CORAM: Ms. Jyoti Balasundaram, Vice President
Mr. M. Veeraiyan, Member [Technical]

Final **Order** No ST/374/08

Per Jyoti Balasundaram

The issue involved in the present appeal is levy of service tax under the category of Consulting Engineer on royalty remitted by the respondent on technology received from M/s Allied Signal Technologies, USA. The amount was remitted over a period of time ending with 2.09.2002.

2. We have heard both sides. In the appeal filed by the Revenue against the order of the Commissioner (Appeals) we find that the lower appellate Authority has relied upon the Tribunal's order in Navinon Limited vs. CCE – 2004 (172) ELT 400, (Mum CESTAT), Bajaj Auto Limited vs. CCE&C, Aurangabad -2006 (3) STR 411 (Mum. CESTAT) and other decisions to hold that service tax is not leviable under the category of consulting engineer on royalty prior to 16.12.2002. The appeal memorandum of the Revenue emphasizes reliance by the Commissioner (Appeals) on the interim stay order passed by the Tribunal in the case of Stone & Webster International Inc vs. CCE, Vadodara (2006) 5 STT 45 to contend that the Commissioner (Appeals) has relied upon the stay order while the final order has yet not been passed. However, the decisions of the Tribunal in Navinon Limited, Bajaj Auto Limited and the larger bench in Hindustan Zinc Limited -2008 –TIOL-1149 (CESTAT Delhi) directly cover the issue and therefore, following the ratio thereof, we uphold the impugned order of the Commissioner (Appeals) and reject the appeal.

[Dictated and pronounced in the open Court]

[Jyoti Balasundaram]
Vice President

[M. Veeraiyan]
Member [Technical]

[Pant]