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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/347 /2007 - CU[DB] Date 03/12/2008

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

To :
M/S JAGJIT INDS. LTD.

VILLAGE HAMIRA, P.O. JAGJIT NAGAR RAILWAY
STATION, VILLAGE HAMIRA, DISTT. KAPURTHALA

M/S JAGJIT INDS. LTD. Appellant

Vs

C.C.E. JALLANDHAR(HQ. AT CHANDIGARH) Respondent

I am directed to transmit herewith a certified copy of **Final order No.** ST/394/08 **CU[DB]** dated 21.11.08

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

C.C.E. JALLANDHAR(HQ. AT CHANDIGARH)

C.R.BUILDING, PLOT NO. 19, SECTOR 17-C, CHANDIGARH.

2. Adv. / Consult
MR.A.K.JAIN
"ABHINANDAN FARM" BEHIND CHIRANJIV BHARTI SCHOOL PALAM VIHAR,
GURGAON(HARYANA),122017
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), Thyagarava 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)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-III

Date of hearing/decision:21.11.2008

Service Tax Appeal No.347 of 2007

Arising out of the order in original No.7/CE/JAL/2007 dated 27.3.2007 passed by the Commissioner, Central Excise, Jalandhar.

For Approval and Signature:

Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K. Das, Member (judicial)

1	Whether Press Reporter 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 CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Y.N.
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

Appellant		Respondent
M/s Jagatjit Industries Ltd.	vs.	C.C.E., Jalandhar

Appearance:

Shri A.K. Jain & Shri Rakesh Jain, Advocates for the appellant
Shri A.K. Madan, Authorized Departmental Representative (DR) for the Revenue

Coram : Hon'ble Mr. M. Veeraiyan, Member (Technical)
Hon'ble Mr. P.K. Das, Member (Judicial)

Final Order No. ST/394/08

Per P.K. Das:

The appellants are engaged in the manufacture of Alcoholic Beverages. It has been alleged in the show cause notice that the appellant failed to pay service tax on the amount received as "Royalty" from various organisations for the use of their "Trade Mark" during the period 2001-2002 to 2003-2004. Service tax was demanded on the amount of Royalty under the category of

"Management Consultancy Service". It has been mentioned in the show cause notice that Madurai Commissionerate in the Trade Notice clarified that if a manufacturer gives consent to another manufacturer for use of his trade mark and realises the amount (Royalty) for the use of Trade Mark, it will be covered under "Management Consultancy Service" and such amount of Royalty is liable to service tax. It is seen that demand of tax was raised ~~received~~ on the basis of Audi objection. The adjudicating authority confirmed the demand of tax and imposed penalty.

2. After hearing both sides and on perusal of the record, we find that the main contention of the learned Advocate is that the issue has been decided by the Board Circular F.No.249/1/2008-CX 4 dated 27th October 2008. He submits that the activities undertaken by the appellants are coming within the purview of "Intellectual Property Service" which was introduced in 2004 in respect of 8 agreements. He further submits that the other 9 agreements has been treated under the category of "Business Auxiliary Services" in the hands of job workers. On perusal of the impugned order, we find that the Commissioner decided the matter on scrutiny of certain agreements placed by appellant during the proceeding. So the matter is required to be examined by the adjudicating authority in the light of the Board's Circular dated 27th October 2008.

3. In view of that, the impugned order is set aside and remanded back to the Commissioner to decide afresh and after considering the Board's Circular and the submissions of the appellants. Needless to say that the adjudicating authority shall give a proper opportunity of hearing before decision. Appeal is allowed by way of remand.

(Dictated and pronounced in the open Court)

(M. Veeraiyan)
Member (Technical)

(P.K. Das)
Member (Judicial)