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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/442 /2006 - CU[DB] Date 10/12/2008

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 RANA POLYCOT LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** ST/409/2008 **CU[DB]** dated 03.12.08 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 RANA POLYCOT LTD.
   VILL-ALAMGIR ,LALRU,DISTT-MOHALI.
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 - 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)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

COURT-III

Date of hearing/decision:3.12.2008

Service Tax Appeal No.442 of 2006

Arising out of the order in appeal No.558/CE/CHD/06 dated 22.6.06 passed by the Commissioner(Appeals), Customs & Central Excise, Chandigarh.

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?	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
C.C.E., Chandigarh | vs. | M/s Rana Polycot Ltd.

Appearance:

Shri Vijai Kumar, Authorized Departmental Representative (DR) for the Revenue and Shri Vikram Kaparia. Advocate for the respondent

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

Final Order No. S7/409/08

Per P.K. Das:

Revenue filed this appeal against the order in appeal No. 558/CE/CHD/06 dated 22.6.06.

2. Respondent is a 100% Export Oriented Unit manufacturing cotton yarn. They have paid commission to the foreign based company during the period 9.7.04 - 30.10.2005. Service tax was demanded on the payment of the service rendered by the foreign based company, who has no office in India.

3. The Adjudicating authority confirmed the demand of tax and imposed penalty. Commissioner (Appeals) set aside the Adjudication Order. Hence the revenue filed this appeal.

4. After hearing both sides and on perusal of the record, we find that the issue has already been decided by the Tribunal in favour of the Respondent in the case of Foster Wheeler Energy Ltd. v. C.C.E & Cus, Vadodara II - 2007 (7) STR 443 (Tri-Ahmd.). The relevant portions of the said decision are reproduced below:

> "**6.8** *We also noticed that there has been an amendment by way of inserting Section 66A in the Service Tax Provisions by the Finance Act, 2006 w.e.f. 18-4-2006. There is no doubt that the services rendered are ultimately in relation to setting up of the LNG terminal in India. Nevertheless, no reliable evidence has been adduced to contradict the claim of the appellant that the services claimed by them as offshore services are not offshore services. Such offshore services are liable for tax consequent to the amendment w.e.f. 18-4-2006, but for earlier period the same will not be so.*
>
> **6.9** *Service Tax Circular No. 36/4/01 dt. 8-10-2001 holds that service provided beyond the territorial waters will not attract service tax. This circular will be relevant till the amendment brought out in service tax laws by insertion of Section 66A w.e.f. 18-4-2006. Therefore, the appellant's contention that the demand on services relating to identified offshore services cannot be subjected to service tax during the relevant/period is acceptable.*

5. Respectfully, following the decision of the Tribunal in the case of Foster Wheeler Energy Ltd. supra, we do not find any infirmity in the order of the Commissioner (Appeals). Accordingly, the appeal filed by the Revenue is rejected.

(Dictated and pronounced in the open Court)

(M. Veeraiyan)
Member (Technical)

(P.K. Das)
Member (Judicial)

scd/