

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
CUSTOMS APPEAL BRANCH

Appeal No. ST/62 /2007 - CU[DB]

Date 11/12/2008

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

To :
HINDUSTAN ZINC LTD.

YASHAD BHAWAN, NEAR SWAROOP SAGAR,
UDAIPUR-313001(RAJ)
HINDUSTAN ZINC LTD.

Appellant

Vs

Respondent

C.C.E, JAIPUR-II

I am directed to transmit herewith a certified copy of **Final order No. ST/413/08 CU[DB]** dated 29.10.08
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, JAIPUR-II

C.C.E, JAIPUR-II, NEW C.R.BUILDING, C-SCHEME, JAIPUR-303005

2. Adv. / Consult

MR.V.LAXMIKUMARNA, ADV

B-6/10 SAFDARJUNG ENCLAVE 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 Publications (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
PRINCIPAL BENCH, NEW DELHI
COURT NO.II

57 / Appeal No.62 /2007-^{Cus} (BR)
A

(Arising out of order in appeal No.614/HKS/ST/JPR.II/06 dated 17.11.06
passed by the Commissioner of Central Excise (Appeals), Jaipur)

For approval and signature:

Hon'ble Mr.P.K. Das, Member(Judicial)

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 should 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?
-

M/s.Hindustan Zinc Ltd

Appellant
(Rep. by Shri Ravi Raghavan, Advocate)

Vs

CCE, Jaipur

Respondent
(Rep. by Shri L.B. Yadav, DR)

Coram: Hon'ble Mr P.K. Das, Member(Judicial)
Hon;ble Mr. Rakesh Kumar, Member(Technical)

Date of Hearing: 29.10.08

Final Order No. 57/413/08 /2008-^{Cus} (BR)
A

Per Rakesh Kumar :

In this case, the appellant had received Engineering Consultancy Services from Foreign Service provider not having any office or establishment in India during the period from 16.9.2002 to 31.12.2004. Service tax of Rs. 2,83,107/- has been confirmed under Rule 2(d)(iv) of the Service Tax Rules, 1944 and penalty has been imposed under Sections 76, 77 and 78. It was pleaded by the learned Counsel for the appellants that the period involved in this case is squarely covered by the Larger Bench decision in the case of Hindustan Zinc Ltd Vs CCE, Jaipur reported in 2008-TIOL-1149-CESTAT-DEL-LB wherein this Tribunal has held that when the service was received by a person in India from foreign service provider having no office in India, the service tax liability can be fastened on the company service recipient in India only w.e.f. 1.1.2005. The learned DR also fairly concedes that the issue involved in this case is covered by the decision in the case of Hindustan Zinc Ltd. In view of this, the impugned order is set aside and the appeal is allowed.

(Order dictated and pronounced in the open Court).

MPS*

(P.K. Das)
Member(Judicial)

(Rakesh Kumar)
Member(Technical)