

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

Appeal No. ST/372 /2007-SM[BR]

Date 24/01/2008

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


To :  
M/S AREVA T & D INDIA LTD.  
MIRAZAPUR ROAD, NAINI, ALLAHABAD

M/S AREVA T & D INDIA LTD.

C.C.E ALLAHABAD

Appellant  
Vs  
Respondent

I am directed to transmit herewith a certified copy of Final order No. 148/2008-SM[BR] dated 7.12.2007 passed by the Tribunal under Section 129, (B) of the Customs Act, 1962 & Financial Act 1994 relating to Service Tax

  
Assistant Registrar  
(SM Appeal Branch)

**Copy to :**

1. Respondent

C.C.E ALLAHABAD

38, M.G. MARG, CIVIL LINES, ALLAHABAD

2. Adv. / Consult

MR.L.P. ASTHANA & MS REENA KHAIR

R-163, SECOND FLOOR, GREATER KAILASH-1, NEW DELHI - 110 048.

3. S.D.R.

4. J.C.D.R.

5. Bar association, CESTAT, New Delhi

6. M/s. Deeparchi Publications, M-93, marg. 43, saket, New

7. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah

8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301

9. R.Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -

10. Nidheshak publications, I.P.Estate, new Delhi


11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,

12. Co, Law Institution

13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070

14. Office Copy

15. Guard file

  
Assistant Registrar  
(SM Appeal Branch)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE  
TRIBUNAL, R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH  
NEW DELHI, COURT NO. III**

**Service Tax Appeal No.372 of 2007 -SM (BR)**

[Arising out of Final order No. 17/ST/All/2007 dated 16.04.2007 passed by the Commissioner of Central Excise, Allahabad]

**Date of Hearing/ Decision: 07.12.2007**

**For approval and signature:**

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

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|--|---|---|
| 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 Areva T&D India Limited	Appellant
[Rep. by Mr. L.P. Asthana with Mr. Abhishek Jaju, Advocates for the appellant]	

**Vs.**

CCE, Allahabad	Respondent
[Rep. by Mr. S. Gautam, Authorised Representative (DR) for the Respondent]	

**CORAM: Mr. P.K. Das, Member (Judicial)**

*Final* ORDER No. 148 /08-SM(BR)

**Per P.K. Das:**

The issue involved in this appeal is as to whether the cenvat credit utilized by the appellant for payment of service tax on GTA services is admissible to the appellant.

2. Learned Advocate on behalf of the appellant submits that the appellants are engaged in the manufacture of transformer and switchgear etc. They paid service <sup>Tax</sup> on the service of transport of goods through cenvat account. Learned Advocate read the various provisions of service tax rules. He submits that the Tribunal in the case of **CCE, Goa vs. Essel Propacks Ltd., reported in 2007 (83) RLT 480 (CESTAT-Mum.)** held in favour of the assessee.

3. Learned DR reiterates the findings of the Commissioner (Appeals). He submits that GTA service cannot be considered as an output service in this case and the service tax liability should be discharged through TR-6 challan instead of cenvat account.

4. After hearing both sides and on perusal of the records, I find the issue is squarely covered by the decision of the Tribunal in the case of **Essel Propacks Ltd., (supra)**. The relevant portion of the said decision is reproduced below:-

*"3. The Tribunal in the above case while considering the Rules 2 (p), 2(q), 2(r) of the Cenvat Credit Rules has held that "there is no restriction for utilization of Cenvat credit by the manufacturing unit towards payment of Service Tax as Service Tax Provider". Therefore, I find no infirmity in the impugned order passed by the Commissioner. The appeal filed by the Revenue lacks the merits. Accordingly appeal is dismissed".*

5. In view of the above, there is no restriction for utilization of cenvat credit by the appellant towards payment of GTA service. Accordingly, the impugned order is set-aside and appeal filed by the appellant is allowed.

(Order dictated and pronounced in the open Court)

(P.K. Das)  
Member (Judicial)

[Pant]