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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/676 /2007-SM[BR] Date 20/06/2008

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

To :
C.C.E. CHANDIGARH

C.R. BUILDING, PLOT NO. 19, SECTOR 17-C,
CHANDIGARH 160017

C.C.E. CHANDIGARH Appellant

Vs

M/S SWARAJ ENGINES LTD Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 969 /2008 –SM[BR] dated 3.6.2008

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

   M/S SWARAJ ENGINES LTD

   INDUSTRIAL AREA, PHASE-IX , MOHALI PUNJAB
2. Adv. / Consult SHRI RAVI RAGHAVAN ADV.
   B-6 /10 SAFDARJUNG ENCLAVE NEW DELHI -29

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 Delhi -
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 60017
13. Taxindiaonline.com Pvt.Ltd, 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, NEW DELHI

PRINCIPAL BENCH NEW DELHI

Service Tax Appeal No.676 of 2007 –SM (BR)

[Arising out of Order-in-Appeal No.342/CE/CHD/2007 dated 29.08.2007 passed by the Commissioner of Central Excise (Appeals), Chandigarh]

Date of Hearing/ Decision:3.6.2008

For approval and signature:

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

1. Whether Press Reporters may be allowed to see 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? :

N.

CCE, Chandigarh ...Appellants

[Rep. by Shri S.L. Meena, DR]

Vs.

M/s. Swaraj Engines Ltd., Mohali ....Respondent

[Rep. by Shri R. Raghavan, Advocate]

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

Final Order No...969/08.../Dated:3.6.2008

Per P.K. Das:

Revenue filed this appeal against the order of the Commissioner (Appeals), whereby Adjudication Order was set aside.

2. After hearing both the sides and on perusal of the records, it is seen that the Commissioner (Appeals) held that in view of the explanation to Rule 2 (p) of Cenvat Credit Rules, 2004, even prior to 19.4.2006, the Respondents were allowed to pay Service Tax on Goods Transport Agency Services from Cenvat Credit Account.

3. Ld. Advocate submits that the issue is covered by the decisions of the Tribunal in favour of the Respondents as under:-

(a) India Cements Ltd. Vs. CCE, Salem
2007 (7) S.T.R. 569 (Tribunal-Chennai)

(b) Bhushan Power & Steel Ltd. Vs. CCE, BBSR-II
2008 (10) S.T.R. 18 (Tribunal-Kolkata)

(c) CCE, Chandigarh Vs. Nahar Indsutrial Enterprises Ltd.
2007 (7) S.T.R. 26 (Tribunal-Delhi)

4. The Tribunal consistently viewed that the asessees were entitled to utilize Cenvat Credit of manufacturing activity towards payment of Service Tax on G.T.S. services. In view of that, I do not find any merit in the appeal of the Revenue. Accordingly, the appeal field by the Revenue is rejected.

Order dictated & pronounced in open court on 3.6.2008.

(P.K. Das)
Member (Judicial)

Ckp.