TELEGRAM : CEGCANAL
Website : www.cestat.gov.in

REGISTERED / AD
Email : delhi@cestat.gov.in

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

Appeal No. ST/483 /2007 - CU[DB] Date 31/03/2009
ST/451/08

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

To :
M/S DAURALA ORGANICS
DAURALA, DISTT. MEERUT.

M/S DAURALA ORGANICS Appellant
Vs
C.C.E. MEERUT I Respondent

I am directed to transmit herewith a certified copy of **Final order No.** ST/118-119/09 CU[DB] dated 23.03.09 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. MEERUT I
EXCISE CHOWK, UNIVERSITY ROAD, MANGAL PANDEY NAGAR, MEERUT - 250005.
2. Adv. / Consult
MR.S.C. KAMRA & CO.
B-2/210(BASEMENT), SAFDARJUNG ENCLAVE, NEW DELHI- 110029

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
NEW DELHI

PRINCIPAL BENCH - COURT NO. 1

Service Tax Appeal No. 483 of 2007 &
Service Tax Appeal No. 451 of 2008

(Arising out of Order-in-Appeal No. 117-CE/MRT-I/2007 dated 31.05.2007 and 76-CE/MRT-I/2008 dated 28.03.2008 respectively passed by the Commissioner of Customs & Central Excise (Appeals-I), Meerut).

DATE OF HEARING : 23.03.2009
DATE OF DECISION : 23.03.2009

FOR APPROVAL AND SIGNATURE :

HON'BLE MR. JUSTICE R.M.S. KHANDEPARKAR, PRESIDENT
HON'BLE MR. M. VEERAIYAN, 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 ?	No
2.	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not ?	Yes
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

M/s Daurala Organics .... **Appellants**
(Rep. by Sh. S.C. Kamra, Adv.)

VERSUS

CCE, Meerut .... **Respondent**
(Rep by Sh. Vijay Kumar, DR)

CORAM : HON'BLE MR. JUSTICE R.M.S. KHANDEPARKAR, PRESIDENT
HON'BLE MR. M. VEERAIYAN, MEMBER (TECHNICAL)

Final ORAL ORDER NO. ST/118-119/09

PER M. VEERAIYAN :

Heard both sides.

2. Both the appeals are by the same appellant and involve a common issue relating to different period.

3. The appellant is a manufacturer of chemicals and they have deputed some officials and staff to another group company and the deputed personnel were engaged in day-to-day activities viz. purchase, sale and like activities of the group company. Personnel were continued to be paid by the appellant company and the appellant company recovered amounts representing salary and other allowances of personnel deputed to the group company. The original authority held that, the activities of the appellant in deputing/providing personnel, as above, would come under the category of "management consultant" and confirmed demand of Service Tax and imposed penalties. The Commissioner (Appeals) has upheld the order of the original authority.

4. Learned advocate submits that the activities undertaken by the appellants do not come under the category of "management consultant". The deputed personnel are actually involved in day-to-day activities of running an existing organization. He relied on the decision of the Tribunal in the case of **Basti Sugar Mills Co. Ltd. vs Commissioner of**

Central Excise, Allahabad, 2007 (7) STR 431, wherein it has been held that, a consultant is rendering only advisory service and not involved in the actual performance of management function and, therefore, such role of a performer cannot be treated as that of a "management consultant". He also relies on the decision in the case of **Sara Services & Engineers P. Ltd. vs CCE, Meerut,** 2009 (90) RLT 671, wherein activities of employees deputed to sister concern for rendering services in procurement of raw materials, undertaking certain job work and permitting use of certain facilities, were held to be outside the purview of "management consultancy service".

5. Learned SDR submits that the definition of the term "management consultant" is an inclusive one and the main part of the definition covers, any service provided directly or indirectly in connection with the management of any organization in any manner, and the activities of the appellants is, therefore, rightly held to be taxable as "management consultant". He relies on the decision of the Tribunal in the case of **Parasmal Bam vs CCE, Indore,** 2002 (53) RLT 428, wherein similar activities have been held to fall under "management consultancy service".

6.1 We have carefully considered the submissions from both sides. The definition of "management consultant", during the relevant period, reads as under :

"Management consultant means any person who is engaged in providing any service either directly or indirectly, in connection with the management of any organization in any manner and includes any person who renders any advice, consultancy or technical assistance, relating to conceptualizing, devising, development, modification, rectification or upgradation of any working system of any organization".

6.2 From a careful reading of the above definition, it is seen that, the "management consultant" is "one who is engaged in providing service.........relating to conceptualizing, devising, development, modification, rectification or upgradation of any working system of any organization". In the present case, the appellants have made available officials and staff (some of them skilled) and they were, admittedly, engaged in conducting day-to-day activities in the group company to which they were deputed. Learned advocate also submitted that only from 16.06.2005 the services of man power supply was brought into Service Tax net. Their activities can be considered only as that of supplier of man power which was taxable only from 16.06.2005 whereas, the demand in the present case relates to earlier period.

6.3 We find that the facts of the present case are substantially the same and akin to the facts of the case mentioned in **Basti Sugar Mills Co. Ltd. vs Commissioner of Central Excise, Allahabad** and **Sara Services & Engineers P. Ltd. vs CCE, Meerut** (supra). The case of **Parasmal Bam vs**

CCE, Indore (supra), relied upon by learned DR, decides an issue that, there is no particular qualification prescribed for a "management consultant" and, therefore, the same is not directly relevant to the present case.

7. In view of the above, we agree with the submissions of the learned advocate for the appellants and hold that during the relevant period the activities of the appellants do not fall under the category of "management consultant", and accordingly allow the appeals with consequential relief.

(JUSTICE R.M.S. KHANDEPARKAR)
PRESIDENT

(M. VEERAIYAN)
MEMBER (TECHNICAL)

Golay