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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**

Date 27/05/2009

Appeal No. ST/317 /2007 - CU[DB]

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

To :  
M/S PML INDUSTRIES LTD.  
VILL: BEHRA DERABASI, DISTT. PATIALA.  
M/S PML INDUSTRIES LTD.

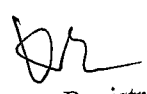
Appellant

Vs  
Respondent

2009 CU[DB] dated 04.05.09

C.C.E. CHANDIGARH

I am directed to transmit herewith a certified copy of Final order No. ST/180  
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. CHANDIGARH

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

2. Adv. / Consult

MR.J M SHARMA

G-31, BASANT ENCLAVE, NEW DELHI

3 S.D.R

4 J.C.D.R.

5 Bar association, CESTAT, New Delhi

6 Director Publications, Customs, Excise, I.P. Estate, New Delhi

7 M/s Centax Publications Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3

8 Commercial Laws of India Pvt Ltd. Post Bag No. 1033, No.2(Old No. 36), Vaithyaram Street, T. Nagar, Chennai -17

9 Raghuraman's 44-B, Regal Flat, Shipra Suncity, Indirapuram - 201010, Ghaziabad, DT, U.P.

10 M/s Manupatra Information Solutions Pvt Ltd. Excise & Customs Cases B-37, Sector - 1, Noida - 201301, Gautam Budh Nagar, (UP)

11 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017

12 Taxindiaonline.com Pvt.Ltd, B-XI/8183, Vasant Kuni, New Delhi - 110070

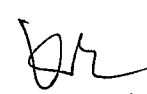
13 Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026

14 Easy Service Tax Online Dot Com Pvt.Ltd.407A.Iscon Mall.Above Star India Bazar,Satellite Road.Ahmedabad-

15 LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Harvana)

16 Office Copy

17 Guard file

  
Assistant Registrar  
(Customs Appeal Branch)

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
West Block No.2, R.K.Puram, New Delhi-110066.  
Principal Bench, New Delhi.**

**ST/317/07**

**(Arising out of Order-in-Appeal No.88/CE/CHD/07 dt.5.4.07  
passed by the Commissioner(Appeals), Chandigarh)**

M/s. PML Industries Ltd.

Appellant

Versus

CCE, Chandigarh

Respondent

Appearance

Shri J.M.Sharma, Consultant for Appellant

Sh. Vijay Kumar, Authorised Departmental Representative(DR)

For Respondent

Coram: Hon'ble Mr. D.N.PANDA, JUDICIAL MEMBER  
Hon'ble Mr. RAKESH KUMAR, MEMBER (TECHNICAL)

*Final* Date of decision: 4.5.09  
Order No. 57/150/09

Per D.N.Panda:

Ld. Counsel Shri J.M.Sharma submits that the same transaction of manufacture which was involved in the appellant's own case reported in 2004(172)ELT.281 has been held to be a service by the impugned order. The appellant was an approved 100% EOU for export of meat. When there was financial crisis,

an arrangement was made between the appellant and other exporters to enable the appellant to carry out manufacturing activity in its plant. This activity <sup>of</sup> slaughter <sup>of</sup> animal <sup>is</sup> for ultimate production of meat. That was held to be a manufacturing activity by the Ld. Commissioner in para 79(ii) of the order dt.30.10.99.

That finding remains untouched subsequently, nor the appellant was denied EOU benefit. The appellant came before the Tribunal for such relief. Tribunal in para 10 of the judgment reported in aforesaid case held that the EOU's obligation was to put the duty free items to export production. That was held to be done. When manufacture of meat is undisputed by the decisions of Tribunal and that remains undisturbed by any order of higher Court, a part of the manufacturing activity cannot be held to be "service" provided in piecemeal. Ultimate object of slaughtering was to manufacture meat. Such a manufacturing activity cannot be termed as service provided as a mechanized slaughter by Revenue. Ld. Counsel Shri Sharma draw our attention to page 92 to 96 of the appeal folder and submits that these agreements were before the Tribunal earlier in the aforesaid reported decision. Considering entire aspect of the matter, Tribunal

granted benefit to the appellant earlier as a manufacturer. The duty demand, confiscation and penalties imposed on the appellant were set aside. Therefore, the order passed by the Id. adjudicating authority and confirmed by the appellate authority below cannot go beyond the decision of the Tribunal made as aforesaid. Accordingly, the appellant should succeed on all counts setting aside the impugned order.

2. Ld. DR supports the order of the authorities below. He submits that page 93 to 96 of the appeal folder show the agreement between the parties and brings the appellant to hold of law for exigibility of service tax under the category of mechanized slaughter house service. The authorities below have thoroughly examined and found that the appellant has not carried out manufacturing activity but provided service of slaughtering. Therefore, the appellant should pay service tax.

3.1 Heard both sides and perused the records.

3.2 We are guided by the Id. Counsel to know the scope of the service tax in respect of the slaughter house. He draws our attention to Section 65(48)(za) of the Finance Act, 1994 and submits that any service provided to any person by a mechanized

slaughter house in relation to the slaughtering Bovine Animals is taxable. The term mechanized slaughtering house has been defined by Section 65(27) of the above Act. It means that a commercial concern engaged in the business of slaughtering of animal need not be engaged in processing of meat. When we understand the meaning given by law from the statutory provision, we are able to conceive how the manufacturing unit can be converted to be a slaughter house. We have seen that Tribunal while passing the order in respect of the same appellant in the aforesaid reported decision, there was movement of the refrigerator van to transport the meat processed in the factory of the appellant. If manufacturing of meat involves slaughter and no manufacture of meat is possible without slaughter, then slaughter service is to be disintegrated from manufacture for separate taxation if that is intention of legislation. No evidence was brought by revenue before us to hold the appellant a slaughter house slaughtering of Bovine animals without manufacturing the meat. Once we are able to see various evidence like DGFT orders at page 118 of the appeal folder and Tribunal's reported decision holding activity of the appellant to be

manufacturer, we hold that incidental activity of slaughter cannot be disintegrated from manufacturing activity which is predominant activity of the appellant. Slaughtering  serves the main purpose of manufacture of meat. Therefore, the appellant should be beyond the scope and ambit of tax under the Finance Act, 1994, for the impugned act <sup>of</sup> slaughtering providing no such service alone.

4. In the result, the appellant succeeds and we set aside the impugned order.

Order dictated in the open Court.

(D.N.Panda)  
Judicial Member

(Rakesh Kumar)  
Member Technical

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