9

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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 22/07/2009

Appeal No. ST/624 /2007-625 /2007 - CU[DB]

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

To :
C.C.E. LUDHIANA
CENTRAL EXCISE HOUSE, 'F' BLOCK, RISHI NAGAR,
LUDHIANA 141001 (PUNJAB)
C.C.E. LUDHIANA

Appellant
Vs
Respondent

SH BALVINDER SINGH, PARTNER

I am directed to transmit herewith a certified copy of **Final order No. ST/234-235/ 2009 CU[DB]** dated 09.07.09 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
   SH BALVINDER SINGH, PARTNER
   M/S SPEEDWAYS TYRE SERVICE, TALWANDI ROAD, NEAR OCTROI POST, ZIRA, DISTT- FEROZEPUR(PB)
2. Adv. / Consult : Mr. LP Asthana, Adv
   R-163 2nd Floor GK –I 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 Publictions 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 Kunj, 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
15. LAWCRUX Advisors Pvt Ltd. LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
16. Office Copy
17. Guard file

Assistant Registrar
(Customs Appeal Branch)

18. M/S SPEEDWAYS TYRE SERVICE
    TALWANDI ROAD, NEAR OCTROI POST, ZIRA, DISTT-
    FEROZEPUR(PB)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

COURT NO. II

Service Tax Appeal No. 624 of 2007-Cust. Br.

(Arising out of Order-in-Appeal No. 152-153/CE/APPL/LDH/2007 dated 5.7.2007 passed by the Commissioner (Appeals), Central Excise, Jalandhar)

CCE, Ludhiana — Appellant

Vs.

Shri Balwinder Singh, Partner
M/s Speedways Tyre Service — Respondent

Service Tax Appeal No. 625 of 2007-Cust. Br.

(Arising out of Order-in-Appeal No. 152-153/CE/APPL/LDH/2007 dated 5.7.2007 passed by the Commissioner (Appeals), Central Excise, Jalandhar)

CCE, Ludhiana — Appellant

Vs.

M/s Speedways Tyre Service — Respondent

Appearance

Appeared for Appellant : Shri Fateh Singh, DR

Appeared for Respondent: None Shri L.P. Asthana, Advocate appeared as amicus curie

Date of Hearing: 9.7.2009

CORAM: HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER
HON'BLE MR. RAKESH KUMAR, TECHNICAL MEMBER

Final Order No. ST/234-235/09 dated............

Per D.N. Panda :

Revenue has come in Appeal against order passed by the ld. Commissioner (Appeals) holding that the tyre re-treading carried out in terms of maintenance or repair contract/agreement is liable to tax after 16.6.05.

2. Ld. DR Shri Fateh Singh appearing for Revenue submits that mere amendment of law by notification to tax certain activity after 16.6.05 does not take away the service provided prior to that date from the fold of law from taxation when the Respondent had not raised such an objection.

3. Ld. Counsel Shri L.P. Asthana appearing as amicus curie assisted the Bench showing the judgement of the Tribunal in the case of **Speedways Tyre Service Vs. CCE Ludhiana** reported in 2009 (92) RLT 437 clearly depicting the law that any activity which was not taxable before 16.6.05 under the law cannot be taxed by any imagination.

3. Heard Revenue and have also advantage of assistance on behalf of the bar. It appears that by amendment to law, reconditioning activity has been brought to the ambit of Tax with effect from 16.6.2005. It appeals to common sense that tyre re-treading is neither repair nor maintenance but a reconditioning

activity to give economic life to the tyre re-treaded. This activity has been intended to be taxed with effect from 16.6.2005. We make it clear that a lateral entry does not burden a former activity, without letters of law intending to do so. Therefore for such reasoning, we confirm the result of the appeal made by the ld. Appellate Authority below. Noticing that the impugned period in the adjudication was from April 03 to October 05, in view of the consequence of the appeal as aforesaid, we direct ld. Adjudicating Authority to work out service tax liability, if any in respect of tyre re-treading activity carried out by the Appellant from 16.6.2005 till 31st Oct. 2005, in this case. With the aforesaid direction, we also modify the reasons of the first Appellate order and dismiss the Appeal of the Revenue.

(Dictated & pronounced in open Court)

(D.N. PANDA)
JUDICIAL MEMBER

(RAKESH KUMAR)
TECHNICAL MEMBER

RM