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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

Date 17/08/2009

Appeal No. ST/725 /2007 – SM[BR]

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

To :
M/S INDO ALUSYS INDUSTRIES LTD
SP-2/333, RIICO IND AREA, BHIWADI(RAJ) Appellant
Vs
M/S INDO ALUSYS INDUSTRIES LTD Respondent

C.C.E. JAIPUR I

I am directed to transmit herewith a certified copy of **Final order No**. 927 / 2009 –SM[BR] dated 31.7.2009 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. JAIPUR I
   N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME, JAIPUR 302005.
2. Adv. / Consult
   MR.K.K ANAND
   A-5,BASEMENT,LAJPAT NAGAR-III NEW DELHI-24
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
(SM Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-IV

Date of hearing/decision: 31.7.2009

Service Tax Appeal No.725 of 2007

Arising out of the order in appeal No.173(RKS)ST/JPR-I/2007 dated 5.10.07 passed by the Commissioner (Appeals I), Customs & Central Excise, Jaipur.

For Approval and Signature:

Hon'ble Shri M. Veeraiyan, Member (Technical)

1	Whether Press Reporter 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 CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	NO
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 Indo Alusys Industries Ltd. .... Appellants

Vs.

C.C.E., Jaipur I .... Respondent

Appearance:

Shri Hemant Bajaj, Advocate for the appellants
Shri S.N. Srivastava, Authorized Departmental Representative (SDR) for the Revenue

Coram: Hon'ble Mr. M. Veeraiyan, Member (Technical)

Oral Order No. 927/2009 SM(BR)

Per M. Veeraiyan:

This is an appeal against the order of the Commissioner (Appeals) No. 173(RKS)ST/JPR-I/2007 dated 5.10.07, by which the order of the original authority confirming denial of Cenvat credit on goods transport agency services availed from the factory gate to the place of delivery amounting to Rs.24,845/- was disallowed relating to the period October 2005 to March, 2006.

2. The Learned Advocate submits that the same issue has been decided by the Tribunal in the case of ABB Ltd. vs. C.C.E. & S.T., Bangalore reported in 2009 (15) STR 23 (Tri-LB).

3. I have carefully considered the submissions and perused the records. The relevant portions of the said order are reproduced below:

> ***1.*** ***We have heard both sides on the issue referred to the Larger Bench viz. 'whether the services availed by a manufacturer for outward transportation of final products from the place of removal should be treated as an "input service" in terms of Rule 2(1)(ii) of CEVAT Credit Rules, 2004 and thereby enabling the manufacturer to take credit of the service tax paid on the 'value of such services? Or whether "input service" should be limited only to outward transportation upto the place of removal in terms of the inclusive definition as held in the Gurajat Ambuja case cited supra?***
>
> ***25.*** ***In the result, we answer the reference by holding that the services availed by a manufacturer for outward transportation of final products from the place of removal should be treated as an input service in terms of Rule 2 (1)(ii) of the CENVAT Credit Rules, 2004 and thereby enabling the manufacturer to take credit of the service tax paid on the value of such services.***

3. In view of the above , as the issue is covered ~~of~~ in favour the assessee the order of the Commissioner (Appeals) can not sustained and the same is set aside. The appeal is allowed with consequential relief.

(M. Veeraiyan)
Member (Technical)

scd/