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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. E/2288 – 2289 / 2009-SM[BR] Date 07/10/2009

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

To :

(1-2) JAYPEE REWA PLANT
UNIT-JAIPRAKASH ASSOCIATION LIMITED, JAYPEE
NAGAR,DISTT. REWA (M.P)
JAYPEE REWA PLANT Appellant

Vs

C.C.E BHOPAL Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1194 – 1195 / 2009 –SM[BR] dated 31.7.2009 passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar
(SM Appeal Branch)

Copy to :
1. Respondent
   C.C.E BHOPAL
   HOSHANGABAD ROAD, 48, ADMINISTRATIVE AREA, AREA HILLS, BHOPAL (M.P.) 462011
2. Adv. / Consult
   MR.V. LAXMIKUMARAN
   B-6/10, SAFDARJUNG ENCLAVE, NEW DELHI-110029
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)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO. 2, R.K. PURAM, NEW DELHI

COURT – III

CENTRAL EXCISE APPEAL NO. 2288-2289 OF 2007-SM

[Arising out of Order-in-Appeal No. 08-ST/BPL/07-08 dated 20.04.2007 & 07-ST/BPL/07-08 dated 19.04.2007 both passed by the Commissioner (Appeals), Customs & Central Excise & Service Tax, Bhopal]

For approval and signature:

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

1.	Whether Press Reporters may be allowed to see the order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2.	Whether it would be released under Rule 27 of the 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?	
4.	Whether order is to be circulated to the Departmental authorities?	Yes.

M/s. Jaypee Rewa Plant — Appellants

Vs.

CCE, Bhopal — Respondent

Appearance:

Shri Ravi Raghavan, Advocate for the appellants;
Shri S. Gautam, D.R. for the Revenue

Coram:

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

Date of hearing/decision: 31st July, 2009

FINAL ORDER NO. 1194 TO 1195/2009 SM (BR) **dated** 7

Per P.K. Das:

Common issue is involved in these appeals and, therefore, both are being taken up together for disposal.

2. After hearing both sides and on perusal of the records, it is seen that the Cenvat credit was denied on services, namely Rent-a-Cab service, Courier service, Air Travel Agent service, Maintenance & Repair service and Telephone service on the ground that the appellants had not submitted any evidence to show that the said services were used for the manufacture of final product.

3. Commissioner (Appeals) observed that the appellants availed credit on the basis of invoices issued by the input service distributor i.e. the appellant Regional Marketing Office at Allahabad. It has been observed that these input services were not related to the business activities as mentioned in the definition of input service. It has been alleged in the show cause notice that the input services have been taken in or relation to the handling of marketing of goods after place of removal on which no Cenvat credit is permissible. The learned Advocate on behalf of the appellant relied upon the decision of the Larger Bench of the Tribunal in the case of ABB Ltd. vs. CCE & S.T., Bangalore, reported in 2009 (15) STR 23 (Tri. – LB). He also relied upon the Larger

Bench decision of the tribunal in the case of CCE, Mumbai-V vs. GTC Industries Ltd., reported in 2008 (12) STR 468 (Tri.-LB).

4. Larger Bench of the Tribunal in the case of GTC Industries Ltd. (supra) while dealing with the input service namely, Outdoor Catering service in the canteen of manufacturer, it has been held that the cost of outdoor catering service is included in the cost of production. In view of the that, employment of outdoor caterer for providing catering services has to be considered as an input service relating to the business and input service credit will be admissible. In the case of ABB Ltd. (supra) the Larger Bench of the Tribunal held that the definition of "input service" has to be interpreted in the light of the requirements of business and it cannot be read restrictively so as to confine only upto the factory or upto the depot of manufacturers.

5. In view of the Larger Bench decisions, it is clear that the input service credit cannot be restricted only in or in relation to the manufacture of final product and their clearance or the place of removal. It is to be decided on the basis of requirement of service which may be outside the manufacturing activities. Hence, input services rendered outside the manufacturing premises would be eligible for credit, if it is related to the business activities.

6. Hence, impugned orders are set aside. Matters are remanded back to the original authority to allow the credit on input services subject to input services were used relating to the business activities and to decide

in the light of the Larger Bench decisions. Both the appeals are disposed of in the above terms.

(Dictated & pronounced in the Open Court.)

(P.K. DAS)
MEMBER (JUDICIAL)

RK