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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. ST/365 /2008 – SM[BR] Date 28/10/2009

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

To :
M/S INSULATORS AND ELECTRICALS CO.
PLOT NO. 1-8 & 20,NEW INDUSTRIAL AREA,MANDI-DEEP,DISTT. RAISEN (M.P.)
462046.

M/S INSULATORS AND ELECTRICALS CO. Appellant

Vs

C.C.E BHOPAL Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1318 / 2009 –SM[BR] dated 14.10.2009 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 BHOPAL
   HOSHANGABAD ROAD, 48, ADMINISTRATIVE AREA, AREA HILLS, BHOPAL (M.P.) 462011
2. Adv. / Consult
   MR.A.H.ANSARI
   C-134, KOH-E-FIZA, BDA COLONY, BHOPAL, (M.P.) 462001.

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)
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Assistant Registrar
(SM Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R. K. Puram, New Delhi
COURT-III

Date of hearing/decision: 14.10.2009

Service Tax Appeal No. 365 of 2008-SM

[Arising out of order-in-Appeal No. 04/Appeal/Bhopal/2008 dated 18.1.08 passed by the Commissioner, Central Excise, Customs & Service Tax, Bhopal]

For approval and signature:

Hon'ble Shri 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 should 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 Insulators and Electricals Company — Appellant

Vs.

CCE, Bhopal — Respondent

Appearance:

Appeared for the Appellant – Shri A.H. Ansari, Advocate

Appeared for the Respondent- Shri V.K. Saxena, Jt. CDR

Coram: Hon'ble Shri P.K. Das, Member (Judicial)

Final Order No. 1318/2009 SM(BR)

Per: P.K. Das:

Heard both sides and perused the records.

2. After hearing both the sides and on perusal of records, I find that the issue involved in this case is in narrow compass. The relevant facts in this case are that the Appellants availed Cenvat credit on the service tax paid on GTA service. The Appellants are engaged in the manufacture of electrical insulators. The Appellants had taken Cenvat credit on the GTA service for transportation of goods. The contention of the Revenue is that transportation of goods beyond the place of removal, i.e. the factory gate is not eligible for Cenvat credit. The ld. Jt. CDR submits that they have to establish that the goods were supplied at the customer's premises.

3. I find that the Larger Bench of the Tribunal in the case of **ABB Ltd. Vs. Commissioner of C. Ex. & ST Bangalore** - 2009 (15) STR 23 (Tri. - LB) held that the GTA service cannot be restricted so as to confine only up to the factory gate or up to depot of the manufacturer. It has been held that service is availed by the manufacturer for outward transportation of final product from the place of removal should be treated as on input service in terms of Rule 2(l) of Cenvat Credit Rules. The Hon'ble Punjab & Haryana High Court in the case of **Ambuja Cements Ltd. Vs. Union of India** - 2009 (236) ELT 431 (P&H) held in favour of the assessee on the identical issue. I do not find any allegation in the show-cause notice that the goods were not supplied at the customer's place. Hence the Appellants are eligible to take credit.

4. In view of the above discussion, the impugned orders are set aside. The Appeal is allowed with consequential relief.

(Dictated & pronounced in open Court)

(P.K. DAS)
MEMBER (JUDICIAL)

RM