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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/1194/2008 – SM[BR] Date **05/01/2011**

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

To :
C.C.E. RAIPUR

CENTRAL EXCISE BUILDING, DHAMTARI ROAD,
TIKRAPARA, RAIPUR 492001.

C.C.E. RAIPUR Appellant

Vs

M/S BITECH ENGG. PVT. LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 12 / 2011 –SM[BR] dated 4.11.2010 passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

Assistant Registrar
(SM Appeal Branch)

Copy to :

1. Respondent
M/S BITECH ENGG. PVT. LTD.
BSBK HOUSE, NANDINI ROAD,
BHILAI,DISTT. DURG (C.G.)
2. Adv. / Consult
NONE:------------------
3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New Delhi
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
9. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005
10. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
11. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
12. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
13. Office Copy
14. Guard file

Assistant Registrar
(SM Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
SINGLE MEMBER BENCH

Excise Appeal No.1194 of 2008

(Arising out of Order-in-Appeal No.10-ST/RPR-II/2008 dated 13.3.08 passed by the CCE & C (A), Raipur)

Date of Hearing: 04.11.2010
Date of Decision: 04.11.2010

For approval and signature:
Hon'ble Mr.Ashok Jindal, 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?	
3	Whether Their Lordships wish to see the fair copy of the Order?	
4	Whether Order is to be circulated to the Departmental authorities?	

CCE, Raipur — Appellant

Vs.

M/s.Bitech Engineering Pvt.Ltd. — Respondent

Present for the Appellant: Shri B.L.Soni, SDR
Present for the Respondent: None

Coram: Hon'ble Mr.Ashok Jindal, Member (Judicial)

Final **ORDER NO.** 12/2011 SM (BR)

PER: ASHOK JINDAL

The Revenue is in appeal against the availment of credit on mobile phone service amounting to Rs.14,276/-. As per the Board's Circular No.390/Misc/163/2010-JC dated 20.10.2010, the Board has decided not to contest the matter where the duty involved is less than Rs.1 lakh before this Tribunal.

2. Considering the fact that the amount involved in the present case, is less than Rs.1 lakh and the issue involved is

whether the assessee is entitled to avail input service credit on mobile phone service or not.

3. In a series of decisions of this Tribunal has held that the assessee is entitled to avail input service credit on mobile phone service irrespective of the address where they are to be billed. In the presence case, it is to be seen whether these mobile phones used by the assessee in their business activities or not. In this case, it has been observed that these mobile phones were received by the respondents and billing has been done at their head office address. Accordingly, I do not find any merit in the Revenue's appeal and the same is rejected.

(Pronounced in the open court)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

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