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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 **30/06/2011**

Appeal No. **ST/906 /2010 – SM[BR]**

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
M/S TEXAS WOOLLEN MILLS PVT. LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No. 359 / 2011-SM[BR]** dated 23.6.2011 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
M/S TEXAS WOOLLEN MILLS PVT. LTD.
MACHHIWARA ROAD,
VILL-KOHARA, LUDHIANA.

2. Adv. / Consult SHRI VIKRANT KACKRIA ADV.
M/S RESPONNDENT:-----------------------

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. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi -
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. 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
Court No.III

Service Tax Appeal No.906 of 2010

(Arsing out of Order-in-Appeal No.90/CE/LDH/2010 dated 17.03.2010 passed by the CCE(A), Chandigarh)

For approval and signature:

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

1	Whether Press Reporters 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 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?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	No

CCE, Ludhiana Appellants

Vs.

M/s.Texas Woollen Millls (P) Ltd. Respondent

Present for the Appellant: Shri K.P.Singh, SDR
Present for the Respondent: Shri Vikrant Kackria, Advocate

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

Date of Hearing: 23.06.2011
Date of Decision: 23.06.2011

Final **ORDER NO.** 359/2011 SM (BR)

PER: M.VEERAIYAN

This is an appeal by the department against the order of the Commissioner (Appeals) No.90/CE/LDH/2010 dated 17.03.2010.

2. Heard both sides.

3. The appellants are manufacturers of paper and paper products. They are also recipient of GTA services and as recipient they were liable to pay service tax. The dispute relates to use of cenvat credit account for the purpose of paying service tax on GTA services availed by them as recipient.

4. Learned SDR submits that earlier appeal was adjourned on the ground that the matter relating to utilization of cenvat credit account, in such situation, was referred to the Larger Bench of the Tribunal in the case of Panchmahal Steel Ltd. vs. CCE, Vadodara-II reported in 2008 (12) STR 447. However, he fairly submits that the facts of the present case and the facts in the case of Nahar Industrial Enterprises Ltd are identical.

5. Learned Advocate for the appellants submits that this issue stands decided by Hon'ble High Court of Punjab & Haryana in the case of CCE, Chandigarh vs. Nahar Industrial Enterprises Ltd. reported in 2011 (104) RLTONLINE 3 holding that recipient of GTA of services can utilize cenvat credit account for paying service tax.

6. Inasmuch as the issue stands decided in favour of the assessee by Hon'ble High Court of Punjab & Haryana in the case of Nahar Industrial Enterprises Ltd holding that the recipient of GTA services can utilize cenvat credit account for paying service tax, there is no valid ground to interfere with the order of the Commissioner (appeals). The appeal is rejected.

(Pronounced in the open court)

(M.VEERAIYAN)
MEMEBR (TECHNICAL)

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