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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/1345/2010 – SM[BR] **Date 18/08/2011**

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 MAHAVIR SPINNING MILLS, Respondent

I am directed to transmit herewith a certified copy of **Final order No. 474 / 2011-SM[BR]** dated 21.7.2011 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 MAHAVIR SPINNING MILLS,
GASSED MERCERIZED YARN
UNIT, PHAGWARA ROAD,
HOSHIARPUR (PUNJAB)

2. Adv. / Consult SHRI RUPENDER SINGH ADV.
DSK LEGAL, 46, ARADHANA CHANAKYAPURI
NEW DELHI-66.

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New
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)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. IV
Service Tax Appeal No. 1345 of 2010 (SM)

[Arising out of the Order-in-Appeal No. 162/CE/APPL/LDH/2010 dated 22/06/2010 passed by The Commissioner (Appeals), Customs & Central Excise, Chandigarh.]

For Approval and signature :
Hon'ble Shri Rakesh Kumar, 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? :

2. Whether it would 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 Department Authorities? :

CCE, Ludhiana — Appellant

Versus

M/s Mahavir Spinning Mills — Respondent

Appearance

Shri B.L. Soni, Authorized Representative (DR) – for the appellant.

S/Shri Rupender Singh and Abhishek Singh Baghel, Advocates – for the respondent.

CORAM : **Hon'ble Shri Rakesh Kumar, Member (Technical)**

DATE OF HEARING : 21/07/2011.

Final Order No. 474/2011 SM (BR) Dated : ____________

Per. Rakesh Kumar :-

The only issue involved in this case is as to whether during the period from 9/7/04 to 30/9/05 that is during the period prior to 18/4/2006, the respondent is liable to pay service tax on taxable services received from an offshore service provider. The Commissioner (Appeals) decided the issue in favour of the respondent following the judgment of Hon'ble Bombay High Court in the case of **Indian National Shipowners Association vs. Union of India** reported in **2009 (13) S.T.R. 235 (Bom.)**, the Revenue's SLP against which the Hon'ble Supreme Court has been dismissed vide judgment reported in **2009 – TIOL – 129 – SC – ST.** Against this order of the Commissioner (Appeals), the present appeal has been filed by the Revenue.

2. Heard both the sides.

2.1 Shri B.L. Soni, the learned Departmental Representative assailed the impugned order by reiterating the grounds of appeal in the impugned order.

2.2 Shri Abhishek Singh Baghel, Advocate, the learned Counsel for the respondent, pleaded that the issue involved in this case stands decided in favour of the respondent by the judgment of Hon'ble Bombay High Court in the case of **Indian National Shipowners Association vs. Union of India** (supra) and the Government's SLP against that judgment has been dismissed by Hon'ble Supreme Court. He, therefore, pleaded that there is no infirmity in the impugned order.

3. I have carefully considered the submissions from both the sides and perused the records.

4. Since the issue involved in this case stands decided in favour of the respondent by the judgment of Hon'ble Bombay High Court in the case of **Indian National Shipowners Association vs. Union of India** (supra) and

SLP filed by the Revenue has also been dismissed by the Hon'ble Supreme Court, and besides this, the judgment of Hon'ble Bombay High Court has also been affirmed by the Delhi High Court in the case of **Unitech Ltd. vs. CST** reported in **2009 (15) S.T.R. 385 (Del.)**, and [illegible] no contrary judgment of Hon'ble Supreme Court has been pointed out, [illegible], I do not find any merit in the Revenue's appeal, the same is dismissed.

(Dictated and pronounced in open court.)

(Rakesh Kumar)
Member (Technical)

PK