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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 08/09/2011

Appeal No. **E/1134/2011 – SM[BR] E / STAY /1451/2011-SM[BR]**

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

To :
M/S NATIONAL ENGINEERING INDUSTRIES LTD.
KHATIPURA ROAD, JAIPUR (RAJASTHAN)

M/S NATIONAL ENGINEERING INDUSTRIES LTD. Appellant
Vs
C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No. 585/2011-SM[BR]&S/512/2011** dated 29.8.2011 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. JAIPUR I
N.C.R.BUILDING, STATUE
CIRCLE, "C" SCHEME, JAIPUR
302005.

2. Adv. / Consult SHRI BIPIN GARG ADV.
B-1/1289-A, VASANT KUNJ NEW DELHI

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 (Harvana)
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. 2, R.K. Puram, NEW DELHI

COURT NO. II

E/Stay/1451/2011-SM in &
Central Excise appeal No. 1134/2011-SM

Date of hearing/decision: 29th August, 2011

M/s. National Engg. Industries Ltd., Appellant
Reptd. By Ms. Sukrit Das, Advocate

Versus

CCE, Jaipur-I Respondent
Reptd. By Shri Anil Khanna, D.R.

Coram: Hon'ble Shri D.N. Panda, Judicial Member

FINAL ORDER NO. 585/2011 SM (BR) **DATED** 5-5/12/2011 SM(BR)

Per D.N. Panda:

Learned Counsel submits that disallowance of Cenvat Credit relates to use of telephone, website development and internet connection on which service tax has been paid. She says that these communication facilities are essentially required for carrying out business activities.

2. Learned D.R. submits that there is no nexus between service provided and utilisation thereof for the permitted activities.

3. When the proposition of both sides is as above, looking to the magnitude of disallowance of Cenvat credit of Rs. 1,33,068/- pre-deposit is waived and appeal is decided by this common order.

4. Order of learned adjudicating authority does not demonstrate use of the service for a purpose oth er than carrying out activity of business by the appellant under Rule 2(l) of Cenvat Credit Rules, 2004. It may be stated that every proposition should be supported by cogent evidence and law. Nothing being coming out from page 37 and 38 of adjudication order, Adjudication fails to sustain. Appellate authority's finding do not throw light as to presence of elements of disallowance. Show cause notice is also vague. There is no scope to sustain the adjudication. Accordingly appeal is allowed.

Dictated & pronounced in the open Court.)

(D.N. PANDA)
JUDICIAL MEMBER

RK