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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/2339/2008 – SM[BR] **Date 28/11/2011**

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

To :
C.C.E. JAIPUR II
N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME,
JAIPUR 302005.
C.C.E. JAIPUR II Appellant
Vs
M/S RAJSTHAN SPINNING AND WEAVING MILLS LTD Respondent

I am directed to transmit herewith a certified copy of **Final order No. 805 / 2011-SM[BR]** dated 2.11.2011 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 RAJSTHAN SPINNING AND WEAVING MILLS LTD
RISHABHDEV, DISTT-
UDAIPUR(RAJ)

2. Adv. / Consult MS. SUKRTI DAS ADV.
M/S RESPONDENT:--------------

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)

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

SINGLE MEMBER BENCH

Court No.3
Excise Appeal No.2339 of 2008
(Arising out of Order-in-Appeal No.119(DK)CE/JPR-II/2008 dt.22.8.2008 passed by the CCE(A), Jaipur)

Date of Hearing/Decision: 02.11.2011

For approval and signature:
Hon'ble Mrs.Archana Wadhwa, 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?	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?	Yes

CCE, Jaipur-II — Appellant

Vs.

M/s.Rajasthan Spinning and Weaving Mills Ltd. — Respondent

Present for the Appellant: Shri Fateh Singh, DR
Present for the Respondent: Ms.Sukriti Das, Advocate

Coram: Hon'ble Mrs.Archana Wadhwa, Member (Judicial)

Final **ORDER NO.** 805/2011 SM (Br)

PER: ARCHANA WADHWA

Being aggrieved with the order passed by the Commissioner (Appeals), vide which he has allowed the credit of service tax paid on the GTA services availed for carrying the official of the company from their house to factory premises, the Revenue has filed the present appeal.

2. After hearing both sides, I find that the issue is no more res integra and stands settled by Hon'ble High Court of Punjab & Haryana in the case of CCE, Chandigarh-II vs. M/s.Federal Mogul Goetze (India) Ltd.-2011-TIOL-650-HC-P&H-ST. It stands held that the service of transportation of employees to the factory is admissible for credit as input service under Rule 2(1) of Cenvat Credit Rules, 2004. Further, Hon'ble Karnataka High Court in the case of CCE, Bangalore-III vs. Stanzen Toyotetsu India (P) Ltd.-2011 (23) STR 444 (Kar.) has held that rent-a-cab service/transportation of workers to reach factory in time has direct bearing on manufacturing activity and the same has to be held as activity relating to business. The credit of service tax paid on these activities is available as input service in terms of Rule 2 (1) ibid. By following the ratio in the above referred judgements, I find no reason to interfere with the order of the Commissioner (Appeals). The Revenue's appeal is accordingly rejected.

(Pronounced in the open court)

(ARCHANA WADHWA)
MEMBER (JUDICIAL)

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