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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/154 /2009 – 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 HINDUSTAN ZINC LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No. 807 / 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 HINDUSTAN ZINC LTD.
RAJPURA DARIBA,DISTT.
RAJSAMAND (RAJASTHAN)

2. Adv. / Consult SHRI HEMANT BAJAJ 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.154 of 2009
(Arising out of Order-in-Appeal No.240-241(DK)CE/JPR-II/2008 dt.8.12.08 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.Hindustan Zinc Ltd. — Respondent

Present for the Appellant: Shri Fateh Singh, SDR
Present for the Respondent: Shri Hemant Bajaj, Advocate

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

Final **ORDER NO.** 807/2011 SM (BR)

PER: ARCHANA WADHWA

Being aggrieved with the order passed by the Commissioner (Appeals), vide which he has allowed the benefit of credit in respect of service tax paid on GTA services utilized for outward transportation of the goods from the factory place to the port of export, 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 the various decisions of the Tribunal. One such reference can be made to the larger bench of the Tribunal in the ABB Ltd. vs. CCE, Bangalore-2009 (15) STR 23 (Tri.-LB). The said decision confirmed by the Hon'ble High Court of Karnataka as reported in 2011 (23) ELT 97 (Kar.). Hon'ble High Court of Gujarat has also taken note of said decision and has confirmed the Tribunal's order in the case of CCE, Vadodara vs. Modern Petrofils Ltd. vide their order dated 7.4.2011 in the Tax Appeal No.1918 of 2010. Inasmuch as the issue stands decided, I find no justifiable 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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