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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/261 /2010 – SM[BR]

Date 14/12/2010

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

To :
M/S STL EXTRUSION PVT. LTD.

PLOT NO. 65, SECTOR-III PITHAMPUR, DISTT. DHAR (M.P.)

M/S STL EXTRUSION PVT. LTD. Appellant

Vs

C.C.E. INDORE Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 1407 / 2010-SM[BR] dated 3.12.2010 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

C.C.E. INDORE

MANIK BAGH PALACE, POST BOX NO. 10, INDORE 452001 (M.P.)

2. Adv. / Consult

MR.BIPIN GARG

B-1/1289,A-VASANT KUNJ, NEW DELHI

3 S.D.R
~~4 J.C.D.R.~~
5 Bar association, CESTAT, New Delhi
6 Director Publications, Customs, Excise, I.P. Estate, New Delhi
7 M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi - 3
8 Company Law Institute of India Pvt Ltd:,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
9 M/s. Deeparchie Publications, M-93, Marg. 46, Saket, New Delhi 110017
10 Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005
11 Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,Ahmedabad-15
12 LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
13 TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
14 Office Copy
15 Guard file

Assistant Registrar
(SM Appeal Branch)

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. III

Service Tax Appeal No. 261 of 2010-SM(BR)

[Arising out of Order-in-Appeal No. IND-I/221/2009 dated 29.9.2009 passed by the Commissioner of Central Excise (Appeals), Indore]

For approval and signature:

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

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1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? : Yes
2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? : Yes
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

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M/s. STL Extrusion Pvt. Ltd. — Appellants

Vs.

Commissioner of Central Excise
Indore I — Respondent

Appearance:

Ms. Sukriti Das, Advocate for the Appellants
Shri Krishna Pratap Singh, SDR for the Respondent

Date of Hearing/decision : 3.12.2010

Final

ORAL ORDER NO. 1407/2010 SM (BR)

Per M. Veeraiyan:

Heard both sides.

2. The appeal is against confirmation of demand of Rs.6,807/- towards Service Tax along with interest and imposition of penalty of Rs.6,500/-.

3. The appellants is a manufacturer of excisable goods and in connection with receipt of inputs, they are availing the services of GTA. As deemed services provider, the appellants were required to pay the service tax on GTA services for which they are the recipients. The demand is raised on the ground that the appellants should have paid the service tax only through Cash / PLA and not through Cenvat Credit account.

4.1 Learned Advocate submits that this issue stands settled by several decisions of the Tribunal holding that there is no restriction for utilisation of Cenvat Credit by the manufacturing unit towards payment of service tax as service provider.

4.2 Following are the decisions relied by the learned Advocate in support of her submissions.

1. CCE, Chandigarh vs. vs. M/s. Nahar Industrial Enterprises Ltd. [2007-TIOL-555-CESTAT-DEL]
2. The India Cements Ltd. vs. CCE, Salem [2007-TIOL-645-CESTAT-MAD]

5. I have carefully considered the submissions. The appellants are permitted to maintain a common Cenvat account into which credit of duty paid on inputs and service tax paid on input services are allowed to be taken as credit. The purpose for which use of the Cenvat account has been

permitted has been listed. There is no restriction placed for utilisation of Cenvat credit by the manufacturing unit towards payment of service tax as a service provider or deemed service provider. In view of the above, there is no irregularity on the part of the appellants using Cenvat credit account.

6. The order of the Commissioner (Appeals) is set aside and appeal is allowed with consequential relief as per law.

(M. Veeraiyan)
Member(Technical)

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