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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/1122/2008 – SM[BR] Date 15/07/2010

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

To :
C.C.E. JAIPUR I
N.C.R.BUILDING, STATUE CIRCLE, "C" SCHEME,
JAIPUR 302005.
C.C.E. JAIPUR I Appellant
Vs
M/S VANASTHALI TEXTILE INDUSTRIES LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** 749 / 2010 –SM[BR] dated 7.7.2010 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 VANASTHALI TEXTILE INDUSTRIES LTD.
   RIICO INDUSTRIAL AREA,SHAHJAHANPUR,DISTT- ALWAR (RAJ.)
2. Adv. / Consult SHRI R.KRISHNAN ADV.
   297-E, POCKET-II, PHASE-I, MAYUR VIHAR
   DELHI-91.

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. IV

Excise Appeal No. 1122 of 2008-SM(BR)

[Arising out of Order-in-Appeal No. 43(RKS)ST/JPR-I/2008 dated 17.3.2008 passed by the Commissioner of Central Excise (Appeals I), Jaipur]

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? : 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? : No

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Commissioner of Central Excise
Jaipur I — Appellants

Vs.

M/s. Vanasthali Textiles Indus. Ltd. — Respondent

Appearance: Shri R.K. Gupta, DR for the Appellants
Shri R. Krishnan, Advocate for the Respondent

Date of Hearing /decision: 7.7.2010

Final **ORAL ORDER NO. 749/2010 SM(BR)**

Per M. Veeraiyan:

This is an appeal against the order of the Commissioner (Appeals) No. 43(RKS)ST/JPR-I/2008 dated 17.3.2008 by which order of the original authority denying the Cenvat credit on mobile phone services amounting to Rs.35,276/- was upheld.

2. Heard both sides.

3. Learned Advocate for the appellants submits that the show cause notice was issued alleging that service tax paid on mobile phones are not eligible for credit. He submits that the same is eligible to be taken as credit as settled by various decisions of the Tribunal for eg. decision in the case of CCE, Bangalore I vs. Conzerv Systems (Pvt.) Ltd. reported in [2009 (13) STR 638(Tri-Bang.)]. The Commissioner (Appeals) has gone beyond the show cause notice and held that the phones are in the name of individuals and such finding is without any basis.

4. Learned SDR reiterates the findings and reasoning of Commissioner (Appeals).

5. On perusal of the show cause notice, it is seen that the credit was sought to be denied ~~denied~~ on the ground that the service tax paid was in relation to mobile phone services. No other grounds are being taken. As Service Tax paid on mobile phone services are held to be eligible for Cenvat credit, the order of Commissioner (Appeals) has to be upheld.

6. The appeal by the department is, therefore, rejected.

(M. Veeraiyan)
Member(Technical)

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