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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066

CUSTOMS APPEAL BRANCH

Appeal No. ST/325 /2008 - CU[DB] Date **17/10/2011**

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

To :
C.C.E. MEERUT I

EXCISE CHOWK, UNIVERSITY ROAD, MANGAL
PANDEY NAGAR, MEERUT - 250005.

C.C.E. MEERUT I Appellant

Vs

M/S MOHIT PAPER MILLS LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/552/ 2011 CU[DB]** dated 13.10.2011 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
M/S MOHIT PAPER MILLS LTD.
NAGINA ROAD,DISSTT.BIJNOR.

2. Adv. / Consult
MR.L.P ASTHANA
R-163, SECOND FLOOR, GREATER KAILASH-1,
NEW DELHI - 110 048.

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New Delhi
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 - 110005
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
(Customs Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No. 2, R.K. Puram, NEW DELHI

COURT-IV

Service Tax appeal No. 325 of 2008

[Arising out of Order-in-Appeal No. 35-CE/MRT-I/2008 dated 25.2.2008 passed by the Commissioner (Appeals), Central Excise, Meerut-1]]

Date of hearing/decision: 11th October, 2011

For approval and signature:

Hon'ble Shri Ashok Jindal, Judicial Member;
Hon'ble Shri Mathew John, Technical Member

1	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3	Whether Their Lordships wish to see the fair copy of the Order?	
4	Whether Order is to be circulated to the Departmental authorities?	

CCE, Meerut-I — Appellant

Vs.

M/s. Mohit Paper Mills Ltd., — Respondents

Present for the Appellant : Shri R.K. Gupta, S.D.R.
Present for the Respondent : Ms. Neha Gulati, Advocate

Coram: Hon'ble Shri Ashok Jindal, Judicial Member
Hon'ble Shri Mathew John, Technical Member

FINAL ORDER NO. ST/552/11 **DATED** 13.10.11

Per Ashok Jindal:

The issue involved in this appeal is whether the respondent who is not actual service provider but discharged service tax liability on the taxable service under Section 68(2) of the Finance Act, 1994 as deemed service provider is entitled to avail Cenvat credit on input services for payment GTA service. Even he is not using input service for providing taxable service during the period January, 2005 to February, 2005.

2. The issue came before the Hon'ble Punjab & Haryana High Court in the case of Nahar Spinning Mills Ltd. - 2011 TIOL 868 - HC P&H-ST. Hon'ble High Court has answered the issue holding that the assessee can utilize the Cenvat credit for payment of GTA service. Therefore, the issue is no more res integra. In view of the above decision of Hon'ble Punjab & Haryana High Court, we find no merit in the Revenue's appeal. The same is dismissed.

(Dictated & pronounced in the Open Court.)

(ASHOK JINDAL)
JUDICIAL MEMBER

(MATHEW JOHN)
TECHNICAL MEMBER

RK