

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
CUSTOMS APPEAL BRANCH

Appeal No. ST/329 /2008 - CU[DB]

Date **02/08/2011**

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

To :
CONTINENTAL CARBON INDIA LTD
A-14,IND.AREA,SOUTH SIFE OF GT
ROAD,GHAZIABAD
CONTINENTAL CARBON INDIA LTD

Appellant
Vs
Respondent

C.C.E. GHAZIABAD

I am directed to transmit herewith a certified copy of **Final order No.ST/323/ 2011 CU[DB]** dated 14.07.11
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
C.C.E. GHAZIABAD
C.G. O. COMPLEX-II, KAMLA
NEHRU NAGAR, GHAZIABAD
201302
2. Adv. / Consult
MR.RAJESH CHHIBBER
FA/9, NEW KAVI NAGAR, GHAZIABAD
3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New Delhi
6. M/s Centax Publications 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 (Harvana)
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)

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram,
New Delhi – 110 066.
Principal Bench, New Delhi**

**COURT NO. III
Service Tax Appeal No. 329 of 2008 (DB)**

(Arising out of the Order-in-Appeal No.11/CE/GZB/08, dated 28.01.08
passed by the CCE, Ghaziabad)

For approval and signature of:

**SHRI S. S. KANG, HON'BLE VICE PRESIDENT
SHRI MATHEW JOHN, HON'BLE 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
-

Continental Carbon (India) Ltd.

Appellant

Versus

CCE, Ghaziabad

Respondent

Appearance

Shri R.Chhibber,, Advocate - for the appellant.

Shri K.K.Jaiswal, SDR – for the respondent.

**CORAM : Hon'ble Shri S.S.Kang, Vice-President
Hon'ble Shri Mathew John, Member(Technical)**

DATE OF HEARING / DEICISION : 14/07/2011.

Final Order No. ST/323/11 Dated : 14.7.11

Per S.S.Kang:

Heard both sides. Appellant filed this appeal against the
impugned order passed by the ^{Commission (A)}~~Adjudicating Authority~~. The issue
involved in this appeal is that whether the recipient of service
provided by the foreign service provider is liable to pay service prior

to 18.04.06. In the present case during the period October, 2004 to March, 2006, appellant received services provided by the foreign service provider. There is no dispute in respect of this factual position. This issue is now settled by the Hon'ble Bombay High Court in the case Indian National Shipowners Association vs. Union of India reported in 2009(13)STR235(Bom.). Hon'ble High Court held that the service receipt is not liable for service tax prior to 18/4/2006 in respect of the service received from Foreign Service Provider. The view taken by Hon'ble Bombay High Court is affirmed by Hon'ble Supreme Court reported in 2010(17)STRJ57(SC).

2. In view of the above settled legal position as the services are received by the appellant prior to 18th April, 2006 hence impugned order is set aside. Appeal is allowed.

(Order dictated in the open court.)

(S.S.Kang)
Vice President)

(~~Mathew John~~)
Member(Technical)

RK-I