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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/691 /2007 - CU[DB] Date **10/08/2011**
ST/104/2008

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

To :
M/S WINSOME TEXTILE INDUSTRIES LTD.
SAI ROAD, BADDI, DISTT. SOLAN (HP)

M/S WINSOME TEXTILE INDUSTRIES LTD. Appellant

Vs

C.C.E. CHANDIGARH Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/342-43 2011 CU[DB]** dated 08.08.2011 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
C.C.E. CHANDIGARH
C.R. BUILDING, PLOT NO. 19,
SECTOR 17-C, CHANDIGARH
160017

2. Adv. / Consult
MR.BALBIR SINGH,ADVOCATE
46, ARADHANA ENCLAVE, R.K.PURAM XIII, N DELHI.

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
14. M/s D.S.K. Legal,
21, UFG, Antariksh Bhawan
Kasturba Gandi marg
New Delhi
15. M/s Auro Dyeing
(A Unit of Vardhman Textile Ltd)
Sai Road Baddi

Assistant Registrar
(Customs Appeal Branch)

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

Date of Hearing : 4.8.2011

Service Tax Appeal No. 691 of 2007

[Arising out of the Order-in-Appeal No. 357/CE/CHD/2007 dated 31.8.2007 passed by the Commissioner of Central Excise (Appeals), Chandigarh]

Coram:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Mathew John, Member (Technical)

1.	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
3.	Whether their Whether their Lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	Yes

M/s Winsome Textile Industries Ltd. — Appellant

Vs.

CCE, Chandigarh — Respondent

Service Tax Appeal No. 104 of 2008

(Arising out of Order-in-Appeal NO. 709/CE/CHD/2007 dated 19.12.2007 passed by the Commissioner (Appeals), Customs & Central Excise, Chandigarh)

M/s Auro Dyeing — Appellant

Vs.

CCE, Chandigarh — Respondent

Appearance:

Appeared for Appellant : Shri Rupender Singh, Advocate
Appeared for Respondent : Shri Sonal Bajaj, SDR (for ST/691/07)
Shri K.K. Jaiswal, SDR (for ST/104/08)

CORAM: Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Mathew John, Member (Technical)

Final Order No.ST/342-343/11 dated 8.8.11

Per Archana Wadhwa :

The very short dispute involved in the present appeals is that the appellants are engaged in the manufacture of excisable goods and exporting the same to foreign countries. They have appointed agents in overseas markets who explore the business opportunity for them and procured export orders. Based on the quantum of sales, these agents are being paid commission. The issue is as to whether the appellants, who are receiving such services from their foreign agent, are liable to pay service tax and commission paid to these foreign agents. The period involved in the appeals are 9.7.2004 to 31.12.2004.

2. The lower authorities have confirmed the service tax against the appellant by relying upon the various provisions of service tax and various notifications. However, we do not feel the need of referring of all of such notifications inasmuch as the issue is no more res integra and stands settled by the Bombay High Court's decision in the case of **Indian National Shipowners Association Vs. Union of India** reported in 2009 (13) STR 235 (Bom.). It stands held that the recipient of various services in India were not liable to pay service tax for the services received from

abroad prior to 18.4.2006, when the provisions of Section 66A of Finance Act 1994 were enacted. The said judgement stand approved by the Hon'ble Supreme Court, when the appeal filed by the Revenue was dismissed as reported in 2010 (13) STR J57(SC). As the period involved in the present appeals are prior to 18.4.2006, the ratio of the said decision is fully applicable to the facts of the case and no service tax liability can be upheld against the appellants. We accordingly set aside the impugned order and allow the appeals with consequential relief.

(Pronounced in open Court)

(Archana Wadhwa)
Member (Judicial)

(Mathew John)
Member (Technical)

RM