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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/250 /2008 - CU[DB] Date **09/03/2011**

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

To :
M/S VARDHMAN SPINNING GENERAL MILLS
100% EOU,SAI ROAD,BADDI.

**M/S VARDHMAN SPINNING GENERAL MILLS** Appellant

Vs

**C.C.E. CHANDIGARH** Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/83/ 2011 CU[DB]** dated 28.02.11 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. CHANDIGARH**
C.R. BUILDING, PLOT NO. 19,
SECTOR 17-C, CHANDIGARH
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2. Adv. / Consult
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A-62,ARADHANA .SECTOR-XIII, N DELHI.110066
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. M/s. Deeparchie Publications. M-93. Marg. 46. Saket. New Delhi 110017
9. Taxmann Allied Service Pvt Ltd.. 59/32. New Rohtak Road. New Delhi - 110005
10. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
11. LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Haryana)
12. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
13. Office Copy
14. Guard file

Assistant Registrar
(Customs Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

COURT NO. II

**Service Tax Appeal No. 250 of 2008**

(Arising out of Order-in-Original No. 114/ST/SML/07 dated 3.8.2007 passed by the Commissioner of Central Excise (Appeals), Chandigarh)

M/s Vardhman Spinning General Mills — Appellant

Vs.

CCE, Chandigarh — Respondent

**Appearance**

Appeared for Appellant : Shri Rupendra Singh, Advocate

Appeared for Respondent : Shri Fateh Singh, DR

**Date of Hearing: 9.2.2011**

CORAM: HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER
HON'BLE MR. MATHEW JOHN, TECHNICAL MEMBER

Final Order No. ST/83/11 dated 28/2/11

Per **D.N. Panda** :

Ld. Counsel submits that the period in dispute before the first Appellate Authority was from 1.8.2002 to 31.3.2006. The appellant is satisfied with the decision partly that no liability arises before ~~from~~ 1.1.2005. But the grievance of the appellant after first appellate decision is that there shall be no liability even from 1.1.2005 till 18.4.2006 when Section 66A came to the statute book. Revenue's grievance is because Section 68(2) was amended to recover the tax dues from the recipient of the service of the nature dealt by the first appellate order which is Consulting Engineering Service provided from abroad, the Assessee is liable to service tax.

2. Ld. DR supports the order of the authorities below.

3. We notice that there was no specific charging provision to treat services provided from outside India to be in par with similar service provided in India during relevant period and like provisions of Section 66A was not existing during that time, for which no one can be brought to charge under taxing statute. There is no intendment or equity about tax. But charge should be by strict letters of law. We may state that Section 66A came to statute book with effect from 18.4.2004 for taxing the service enumerated in that Section on the premises that the service provided from abroad shall be treated as if the recipient had himself provided the service in India and accordingly all the provisions of the Chapter would apply. When specific charging provisions came to statute book later which was not embedded to Section 68(2) of Finance Act, 1994 following the Apex Court's judgement in the case of **Martin Lottery** reported in 2009 (14) STR 593 (SC), we allow the appeal of the appellant.

(Dictated & pronounced in open Court)

(D.N. PANDA)
JUDICIAL MEMBER

(MATHEW JOHN)
TECHNICAL MEMBER

RM