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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/150 /2008 - CU[DB] Date **01/03/2011**

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

To :
C.C.E. INDORE

MANIK BAGH PALACE, POST BOX NO. 10, INDORE
452001 (M.P.)

C.C.E. INDORE Appellant

Vs

M/S UNIPATCH RUBBER LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.** ST/62/ **2011 CU[DB]** dated 17.02.11 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
M/S UNIPATCH RUBBER LTD.
MAHARAJPURA INDUSTRIAL
AREA, BHIND ROAD,GWALIOR
(M.P.)
2. Adv. / Consult Mr. V.L.Kumaran, Adv
B-6/10, Safdarjung Enclave
New 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. 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,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.

BENCH-DB

Date of Hearing:15.2.2011

Service Tax Appeal No. ST/150/08

[Arising out of Order-in-Appeal No.IND-1/09/2008 dated 11.01.2008 passed by the Commissioner (Appeals), Indore]

For approval and signature:

HON'BLE Mr. ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR. MATHEW JOHN, MEMBER (TECHNICAL)

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?	No
4	Whether Order is to be circulated to the Departmental authorities?	No

CCE, Indore ...Appellant

Vs.

M/s.Unipatch Rubber Ltd. ... Respondent

Present for the Appellant :Shri.Amrish Jain, SDR
Present for the Respondent:Shri.B.L. Narasimhan, Advocate

Coram: HON'BLE MR. ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE MR. MATHEW JOHN, MEMBER (TECHNICAL)

Final **ORDER NO.** ST/62/11 **DATED:** 17.2.11

PER: ASHOK JINDAL

This appeal is filed by the Revenue against the dropping of proceedings against the respondent. The short issue involved in this case is that whether the respondents are liable to pay service tax on GTA only by cash or from PLA and not from Cenvat Credit Account for the period from January, 2005 to March, 2006.

2. The ld. DR reiterated the grounds of appeal and supported the adjudication order.

3. On the other hand the ld. Advocate submitted that his issue is no more res-integra in the light of the decisions in the case of :

(1) CCE, Bangalore vs. M/s.Shri Tubes & Steels Pvt. Ltd. reported in 2011 TIOL-147-CESTAT-Bangalore.

(2) CCE, Chandigarh vs. Nahar Industrial Enterprises Ltd. & Ors. reported in 2011 (104) RLT online 3 (P & H)

(3) CST, Mumbai vs. Phills Engineering Corporation reported in 2010 (20) STR 692 (Tri-Mumbai)

4. Heard and considered.

5. We find that in the above cited decisions by the ld. Advocate, this Tribunal has found that prior to Notification No.10/2008-CE (NT) dated 1.3.2008, this Tribunal has held that a person who is liable to pay service tax on goods transport agent service in terms of section 68 (2) of the Finance Act 1994 and is not actual service provider, can utilize credit for payment of tax on such services. Hence, we find that the issue is no more resintegra and admittedly the period involved in this case is prior to 1.3.2008. Hence, we do not

find any merit in the Revenue's appeal and the same is rejected.

[Dictated & Pronounced in the open Court].

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(MATHEW JOHN)
MEMBER (TECHNICAL)

Anita