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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

Date **01/03/2011**

Appeal No. ST/324 /2008 - CU[DB]

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

To :
NATIONAL ENGINEERING INDUSTRIES LTD

KHATIPURA ROAD,JAIPUR

302005

NATIONAL ENGINEERING INDUSTRIES LTD Appellant

Vs

Respondent

C.C.E. JAIPUR I

I am directed to transmit herewith a certified copy of **Final order No. ST/64/ 2011 CU[DB]** dated 24.02.11 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. JAIPUR I
N.C.R.BUILDING, STATUE
CIRCLE, "C" SCHEME, JAIPUR
302005.
2. Adv. / Consult
MR.BIPIN GARG
B-1/1289,A-VASANT KUNJ, 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.

COURT NO. IV

Service Tax appeal No. 324 of 2008

[Arising out of Order-in-Appeal No. 309(RKS)ST/JPR-I/2008 dated 11.3.2008 passed by the Commissioner (Appeals-I), Central Excise, Jaipur].

Date of Hearing: 22nd February, 2011

For approval and signature:

Hon'ble Shri Ashok Jindal, Member (Judicial);
Hon'ble Shri 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

M/s. National Engineering Inds. Ltd., Appellants

Vs.

CCE, Jaipur-I Respondent

Present for the Appellant : Ms. Sukriti Das, Advocate
Present for the Respondent : Shri B.L. Soni, SDR

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

FINAL ORDER NO. ST/64/11

Per ASHOK JINDAL:

The short issue involved in this case is whether the appellants are liable to pay service tax on GTA service from PLA/cash or can pay from their Cenvat credit account for the period prior to 1.3.2008?

2. Learned Advocate for the appellants submits that in several cases this Tribunal has held that for the period prior to 1.3.2008 assessee can pay service tax on GTA by utilising their Cenvat credit account. She relied upon the decision in the case of CCE, Chandigarh vs. Nahar Industrial Enterprises Ltd., reported in 2007 (7) STR 26 (Tri.-Del.). She further relied upon the decision of the Hon'ble High Court of Punjab & Haryana in the case of CCE, Chandigarh vs. Nahar Industrial Enterprises Ltd. & Ors., reported in 2011 (104) RLTONLINE 3 (P&H).

3. Learned D.R. reiterated the impugned order.

4. Heard and considered.

5. On going through the submissions made by both sides we find that the issue is no more res-integra as the same has been settled by various decisions of this Tribunal as well as decision of Hon'ble Punjab & Haryana High Court in the case of Nahar Industrial Enterprises Ltd. (supra) wherein it has been held that for the period prior to 1.3.2008 assessee can utilise their Cenvat credit account for payment of service tax on GTA. Accordingly, impugned order is set aside and appeal is allowed with consequential relief, if any.

(Dictated & pronounced in the Open Court.)

(ASHOK JINDAL)
JUDICIAL MEMBER

(MATHEW JOHN)
TECHNICAL MEMBER

RK