

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

Appeal No. ST/72 /2008 - CU[DB]

Date 08/03/2011

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

To :
C.C.E. RAIPUR

CENTRAL EXCISE BUILDING, DHAMTARI ROAD,
TIKRAPARA, RAIPUR 492001.
C.C.E. RAIPUR

Appellant

Vs
Respondent

M/S BHARAT ALUMINIUM CO. LTD.

I am directed to transmit herewith a certified copy of **Final order No.ST/75/ 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**

Dr
Assistant Registrar

(Customs Appeal Branch)

Copy to :

1. Respondent

M/S BHARAT ALUMINIUM CO. LTD.
BALCO NAGAR, DISTT. KORBA
(C.G.)

2. Adv. / Consult *Mr. R. Raghavan, Adv.*
B-6/10, Safdarjung Enclave
New Delhi - 29.

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. 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 (Harvana)

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

Dr

Assistant Registrar
(Customs Appeal Branch)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

COURT NO. II

Service Tax Appeal No. 72 of 2008

(Arising out of Order-in-Appeal No. 88(ST)/RPR-I/07 dated 17.10.2007 passed by the Commissioner (Appeals), Customs & Central Excise, Raipur)

CCE, Raipur

Appellant

Vs.

M/s Bharat Aluminium Co. Ltd.

Respondent

Appearance

Appeared for Appellant : Shri Amrish Jain, DR

Appeared for Respondent : Shri R. Raghvan, Advocate

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/75/2011 dated 28.2.11

Per **D.N. Panda** :

From the facts of the case, it appears that the matter related to the period from July 2004 to April 2006. The appellate order under challenge was reviewed on the ground that the recipient of the services rendered by commission agents based abroad should pay tax in view of Rule 2(1) (d) (iv) of Service Tax Rules. Section

66A of the Finance Act, 1994, to bring the recipient to discharge the liability came into effect from 18.4.2006 only. We have been noticing that similar such cases ^{have been} appearing on board and we have been taking a consistent view following the decision of Hon'ble High Court of Delhi in the case of **Indian National Shipowners Association Vs. Union of India** reported in 2009 (13) STR 235 which remained untouched due to dismissal of SLP of Revenue as reported in 2010 (17) STR 157 (SC). The controversy having been resolved in favour of the Appellant, we do not find substance of Revenue's appeal and the same is dismissed.

(Dictated & pronounced in open Court)

(D.N. PANDA)
JUDICIAL MEMBER

(~~MATHEW~~ JOHN)
TECHNICAL MEMBER

RM