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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066

EXCISE APPEAL BRANCH

Appeal No. E/1158/2011-1159/2011 - EX[DB] WITH E/S/1481-1482/2011-EX Date **19/12/2011**

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

To :
M/S NATIONAL ENGINEERING INDUSTRIES LTD.,
KHATIPURA ROAD, JAIPUR (RAJASTHAN)

M/S NATIONAL ENGINEERING INDUSTRIES LTD., Appellant

Vs

C.C.E. JAIPUR I **STAY ORDER NO.1465-1466/2011-EX** Respondent

I am directed to transmit herewith a certified copy of **Final order No.1026-1027/ 2011 EX[DB]** dated 08-12-11 passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
C.C.E. JAIPUR I
N.C.R.BUILDING, STATUE
CIRCLE, "C" SCHEME, JAIPUR
302005.

2. Adv. / Consult MS. SUKRITI DAS, ADV.,
B-1/1289-A, VASANTKUNJ,
N. DELHI-70

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

Assistant Registrar
(Excise Appeal Branch)

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

COURT NO. III

DATE OF HEARING : 01/12/2011.
DATE OF DECISION : 01/12/2011.

Excise Stay Applications No. 1481-1482 of 2011 in Appeals No. 1158-1159 of 2011

M/s National Engineering Industries Ltd. — Appellants

Versus

CCE, Jaipur – I — Respondent

[Arising out of the Order-in-Appeal No. 59-60 (DKV) CE/JPR-I/ 2011 dated 11/02/2011 passed by The Commissioner (Appeals), Central Excise, Chattisgarh.]

For Approval and signature :
Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Rakesh Kumar, 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?	:	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 Lordships wish to see the fair copy of the order?	:	Seen
4.	Whether order is to be circulated to the Department Authorities?	:	Yes

Appearance

Ms. Sukriti Das, Advocate – for the Appellants.

Shri Sunil Kumar, Authorized Representative (DR) – for the Respondent.

CORAM : **Hon'ble Ms. Archana Wadhwa, Member (Judicial)**
Hon'ble Shri Rakesh Kumar, Member (Technical)

STAY order No. 1465-1466/2011-EX
FINAL Order No. 1026-1027/2011-Ex Dated : ______________

Per. Archana Wadhwa :-

The total amount of Rs. 14,03,119/- stands confirmed against the applicant in both the appeals by denying them ~~by~~ the benefit of ~~credit~~ of Cenvat credit of service tax paid on fire insurance, insurance of vehicles, marine policy, medi-claim, term insurance policy for employees, taxi, air fares, professional fees, consultancy authorities, cultural function expenses, catering services etc. on the ground that they cannot be treated as input services.

2. After hearing both the sides, we find that the major amount of credit in respect of fire insurance and marine insurance and insurance of the vehicles etc. We find that the judgement ~~observations~~ of Hon'ble Karnataka High Court in the case of **CCE, Bangalore – III vs. Stanzen Toyotetsu India (P) Ltd.** reported in **2011 (23) S.T.R. 444 (Kar.)**, h as held most of the services to be covered by the definition of input services. To the similar effect is the Tribunal's decision in the case of **Monnet Ispat & Energy Ltd. vs. CCE, Raipur** reported in **2010 (19) S.T.R. 417 (Tri. – Del.)**.

3. In as much as we find that the major claim of Cenvat credit in respect of various services stand covered by the said decision of the Tribunal. We dispense ~~dismiss~~ with the condition of pre-deposit of duty and penalty in both the cases.

4. We further note that the Commissioner (Appeals) in para 8 of his order has observed that the fire and insurance was also in respect of some outside properties. He has also observed that the appellants have not been able to produce evidences to show that the services were in fact exclusively used for production of goods by their unit at Jaipur. We further find that some of the services relate to Yoga and Cultural activities which cannot be held to be input services in as much as they are not related to the business activities of the appellant. All the above facts can only be verified at the original authorities level. For the said purposes, we set aside the impugned order and remand the matter to original Adjudicating Authority to redecide the quantum of ineligible credit, by following the above referred decisions of the Hon'ble Karnataka High Court and the Tribunal. The appellants are at liberty to rely upon the other decisions, if any, before the original Adjudicating Authority. Stay petitions, appeals stand disposed of in above manners.

(Dictated and pronounced in open court.)

(Archana Wadhwa)
Member (Judicial)

(Rakesh Kumar)
Member (Technical)

PK