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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/493 /2008 - CU[DB] Date **07/03/2012**

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

To :
THE BANK OF RAJASTHAN LTD.

CHIEF MANAGER,REGIONAL OFFICE,
AERODROME CIRCLE,KOTA.

THE BANK OF RAJASTHAN LTD. Appellant

Vs

C.C.E. JAIPUR I Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/A/136/ 2012 CU[DB]** dated 01.03.2012 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

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-3
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
(Customs Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R. K. Puram, New Delhi.

Date of hearing/decision 27.02.2012

Service Tax Appeal No. 493 of 2008
(Arising out of order-in-appeal No. 52-58(RKS)/ST/JPR-1/2008 dated 17.4.2008 passed by the Commissioner of Central Excise (Appeals-1) Jaipur.

M/s Bank of Rajasthan Limited — Appellant
None for the appellant.

Vs.

CCE, Jaipur — Respondent
Rep. by Sh. K.P. Singh, DR for the respondent.

Coram: **Hon'ble Sh. D. N. Panda, Judicial Member**
Hon'ble Sh. Rakesh Kumar, Technical Member

Final ORDER No. ST/A/136/12-Cus

Per: Shri D. N. Panda:

None present for the appellant. Nor there is any adjournment application on record. The disallowance of cenvat credit is against service tax paid on expenses incurred in use of mobile phone and also landlines. The appellant came to the Tribunal with the grievance that those being connected with providing of output service, cenvat credit of service tax should not be denied.

2. Learned DR appearing for Revenue says that the appellate authority has rightly passed the order disallowing the cenvat credit involved on the above count.

3. The impugned order clearly shows that the first appellate authority has pre-determined mind to disallow cenvat credit when he

had expressly stated "I have half a mind to treat them as input service and allow credit". We are not influenced by this inference but we notice that there were no observations about inadmissibility of cenvat credit in the impugned order. No where it has been brought out in the show cause notice or in the orders of the authorities below that appellant bank was not provider of output service. In absence of any evidence establishing such position, it is difficult to disagree with the appellant's contention in para 4 of the grounds of appeal which says that RBI guidelines displayed at the branch premises disclose the phone numbers to which the customers can make a call. That includes landline phone proving that the phones were used to provide output service. In absence of evidence as stated above, the appeal of the assessee is allowed.

(Dictated and pronounced in the open Court)

(D.N. Panda)
Judicial Member

(Rakesh Kumar)
Technical Member

Pant