

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

Appeal No. ST/MISC/981/2011, ST/STAY/3239/2011,
ST/1535/2011 - CU[DB]

Date 20/03/2012

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

To :
M/S MITA INDIA PVT. LTD.
(FORMERLY MITA HARIG INDIA (P) LTD. ,
21/2, SITE-II, MOHAN NAGAR, GHAZIABAD (U.P.)
M/S MITA INDIA PVT. LTD.

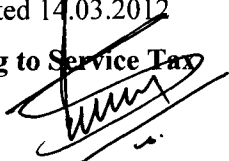
Appellant

Vs
Respondent

C.C.E. GHAZIABAD

MISC. ORDER NO.ST/M/65/2012
STAY ORDER NO.ST/S/285/2012

I am directed to transmit herewith a certified copy of Final order No.ST/A/234/ 2012 CU[DB] dated 14.03.2012
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. GHAZIABAD

C.G. O. COMPLEX-II, KAMLA
NEHRU NAGAR, GHAZIABAD
201302

2. Adv. / Consult

MR.R.K. PHILIPS

M/S SIRMACS CONSULTANCY SERVICES,
UG-3, PRAGATI TOWER, 26, RAJENDRA PLACE,
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 Publications 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

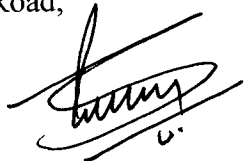
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road,
Ahmedabad-15

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
PRINCIPAL BENCH, NEW DELHI
Court No.III**

**ST/Misc 981/2011, ST/Stay No.3239/2011
in ST/Appeal No.1535/2011**

(Arising out of order in appeal No.137/ST/Gzb/2011 dated 15.7.2011
passed by the Commissioner of Central Excise (Appeals), Ghaziabad)

Date of Hearing: 14.3.2012

For Approval and signature:

Hon'ble Mrs. Archana Wadhwa, Member Judicial
Hon'ble Mr. Mathew John, Technical Member

- | | | |
|----|--|------|
| 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 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? | NO |

M/s Mita India Pvt Ltd

Appellants

Vs

CCE, Ghaziabad

Respondent

Appeared for the Appellant: Shri P.K. Philips, Advocate

Appeared for the Respondent: Shri K.P. Singh, DR

Coram: **Hon'ble Ms. Archana Wadhwa, Member (Judicial)**

Hon'ble Mr. Mathew John, Member (Technical)

Misc order No. ST/M 65/12 - Cus

Final ORDER No. ST/A/234/12 - Cus

Stay order No. ST/S/285/12 - Cus

Per Mathew John:

about

In this case, the dispute involved is about cenvat credit on outward
transportation of final product of the appellants from their factory.

The period involved is during 2005-06 and 2006-07. The appellants have already deposited an amount of Rs. 2 lakhs during the pendency of the stay petition out of Rs. 5,42,461/-. Considering the pre-deposit made sufficient for the purpose of Section 35-F of the Act, we waive the requirement of pre-deposit of balance dues and stay petition is allowed.

2. Further we note that this issue has already been decided by the Larger Bench of the Tribunal in the case of ABB Ltd 2009 (15) STR 23 which has been confirmed by the Hon'ble Karnataka High Court in the case of CST Vs ABB 2011 (23) STR 97 for the period in question.

3. Considering the definition of input service which was ^{in force} ~~imposed~~ for the said period, ~~therefore~~, we find that there is no further issue to be discussed in this appeal and accordingly, respectfully following the Hon'ble Karnataka High Court decision, we allow the appeal with consequential benefit to the appellant. Stay petition as also the appeal are disposed of in the above terms.

Misc Application is also disposed of accordingly.

(Order dictated and pronounced in the open Court.)

(ARCHANA WADHWA)
Judicial Member

(MATHEW JOHN)
Technical Member

MPS*