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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/506 /2008 - CU[DB] Date **27/03/2012**
ST/CO/17/09

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

To :
C.S.T. DELHI

17-B, I.P. ESTATE, IAEA HOUSE, NEW DELHI.

C.S.T. DELHI Appellant

Vs

M/S MARUTI UDYOG LTD. Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/A/253 2012 CU[DB]** dated 13.03.12 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
M/S MARUTI UDYOG LTD.
PALAM GURGAON
ROAD,GURGAON-122015.

2. Adv. / Consult Mr. V.L.Kumaran, Adv
B-6/10, Safdarjung Enclave
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-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/Appeal No.506/2008, ST/CO 17/2009

(Arising out of order in original No.42/VKG/CST/08 dated 30.4.08 dated passed by the Commissioner of Central Excise, Gurgaon)

Date of Hearing: 13.3.2012

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?	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.

CST, Delhi — Appellants

Vs

M/s Maruti Udyog Ltd — Respondent

Appeared for the Appellant: Shri B.L. Soni, DR
Appeared for the Respondent: Shri B.L. Narasimhan, Advocate

Coram: **Hon'ble Ms. Archana Wadhwa, Member (Judicial)**
Hon'ble Mr. Mathew John, Member (Technical)

Final ORDER No. ST/A/253/12-Cus

Per Archana Wadhwa:

Being aggrieved by the order passed by the Commissioner vide which he has held that providing of technical knowhow and license to use knowhow for manufacturing products and parts by the respondents do not fall under the ambit of taxable service under the category of consulting Engineer services, revenue filed the present appeal. The said finding stands arrived at by the adjudicating authority by analysising the various clauses of agreements entered into by the respondents with M/s ~~Maruti~~ Suzuki Motor Corporation, Japan ~~Udyog Ltd~~ who had provided the technical knowhow.

2. After hearing both the sides, we find that the respondent is the recipient of the said services from a foreign based person. The period involved in the present appeal is from 1.12.2003 to 9.9.04. The service tax is sought to be confirmed against the respondents on the ground that as a recipient of the said services, he is liable to pay service tax on reverse charge basis.

3. We find that apart from the fact that the issue on merits is decided in favour of the respondent by the Tribunal when the appeal filed by the Revenue against the order of Commissioner (Appeals) was rejected in case of CST Delhi Vs M/s Suzuki Motor Corporation vide final order No. ST/562/2011 dated 13.9.2011, we are of the view that the present appeal can be disposed of on the ground that prior to 18.4.2006, the recipient of the~~ir~~ services in India was not liable to pay service tax. ~~Reference in this regard is to~~ Issue stand settled by the Bombay High Court judgement in the case of Indian Shipowners Association 2009 (13) STR 235 Bom. The appeals filed by the Revenue before the Hon'ble Supreme Court stands dismissed. The CBEC vide its subsequent instruction F. No. 276/8/2009-CX,8A dated 26.9.2011 has observed that service tax liability in respect of taxable service provided by a non-resident or a person located outside India,

to a recipient in India would arise w.e.f. 18.4.2006 i.e. the date of enactment of Section 66A of the Finance Act, 1994. In view of the above, we reject the appeal filed by the Revenue.

(Order dictated and pronounced in the open Court.)

(ARCHANA WADHWA)
Judicial Member

(MATHEW JOHN)
Technical Member

MPS*