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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/830/2008-CU[DB]

Dated: **29/06/2012**

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

C.C.E. NOIDA
C-56/42, Sector-62, Noida-201307

C.C.E. NOIDA (Appellant)

VS

ANEST IWATA MOTHERSON LTD (Respondent)

I am directed to transmit herewith a certified copy of Final Order No. **ST/A/486/2012-CU[DB]** dated **25/06/2012** passed by the Tribunal under section **01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.**

Assistant Registrar
CUSTOMS Appeal Branch

Copy To,
1. Respondent
ANEST IWATA MOTHERSON LTD
B-123-124,Sector-63, Noida

2. Advocate(s) / Consultant(s):
BHOOMIKA VERMA

P-13, SECTOR – 12
NOIDA – 01

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. Gaurd File

Assistant Registrar
CUSTOMS Appeal Branch

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

Date of Hearing : 25.6.2012

Service Tax Appeal No. 830 of 2008

[Arising out of the Order-in-Appeal No. 100/CE/APPL/Noida/2008 dated 28.8.2008 passed by the Commissioner, Customs, Central Excise & Service Tax, Noida]

For Approval & signature :

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Mathew John, Member (Technical)

1.	Whether Press Reporter 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 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

CCE, Noida Appellant

Vs.

M/s Anest Iwata Motherson Ltd. Respondent

Appearance:

Appeared for Appellant : Shri B.L. Soni, A.R.
Appeared for Respondent : Ms. Bhoomika Verma, Advocate

CORAM: Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Shri Mathew John, Member (Technical)

Final Order No. ST/A/486/12-Cus dated............

Per **Mathew John :**

During the period 2001-02 and 2002-03 the respondent availed services from M/s Anest Iwata Corporation, Japan for providing technical know-how for the manufacture of air compressor and parts. They paid service tax as a recipient of such service classifying under the category of IPR. The Revenue was of the view that the services was classifiable under the category of Consulting Engineer's Service in which case the service received for prior period also was taxable and accordingly a Show Cause Notice was issued for recovering of the service tax not paid.

2. In this case the respondent is not challenging the service tax already paid as a recipient of the service. Only classification of service is in dispute, along with demand for tax for earlier period consequent to such re-classification.

3. What we note is that for the period prior to 18.4.2006 it has been held that the persons receiving service from persons located abroad need not have paid service tax because there was no appropriate legally valid provisions in that regard prior to 18.4.2006 as held in the case of **Indian National Shipowner's Association Vs. UOI** – 2009 (13) STR 235 (Bom.). Therefore the classification dispute is immaterial in this case. ~~further no~~ No further liability can be imposed on the respondent. Therefore we find no merit in the appeal filed by the Revenue and the same is dismissed.

(Dictated & pronounced in open Court)

(Archana Wadhwa)
Member (Judicial)

(Mathew John)
Member (Technical)

RM