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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/741-745/2008-CU[DB]

Dated: **29/06/2012**

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

AJAY INDUSTRIES,
AJAY NAGAR, BACKSIDE INDL.
ESTATE, JALANDHAR.

AJAY INDUSTRIES, (Appellant)

VS

C.C.E. JALLANDHAR(Hq. at Chandigarh) (Respondent)

I am directed to transmit herewith a certified copy of Final Order No. **ST/A/487-491/2012-CU[DB]** dated **08/06/2012** and Stay/MISC Order No. and 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
C.C.E. JALLANDHAR(Hq. at Chandigarh)
C.R.Building, Plot No. 19, Sector 17-C,
Chandigarh.

2. Advocate(s) / Consultant(s):
SUDHIR MALHOTRA
13-R, HUKAM CHAND COLONY,
NEAR D.A.V COLLEGE, JALANDHAR

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

P.T.O.

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

GDPA FASTENERS, ST/742/08
NEAR RAILWAY GODOWN,
JALANDHAR.

TALBRO FORGINGS.,
DHOGRI ROAD, JALANDHAR. ST/743/08

.J.TOOLS & CASTINGS PVT. LTD.,
64-65, AMAN NAGAR, BYE PASS, ST/744/08
G.T.ROAD, JALANDHAR.

FORGINGS & CHEMICALS
INDUSTRIES, ST/745/08
G.T.ROAD, BYE PASS, JALANDHAR.

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI PRINCIPAL BENCH, COURT NO. III

Date of Hearing/decision : 8.6.2012

Service Tax Appeal No. 741-745 of 2008

For approval and signature:

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

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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 should 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 Departmental authorities?	:	Yes

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Service Tax Appeal No. 741 of 2008-SM

[Arising out of Order-in-Appeal No. 575-CE /APPL/ Jal/2008 dated 15.10.2008 passed by the Commissioner of Customs & Central Excise (Appeals), Chandigarh]

M/s. Ajay Industries — Appellants

Vs.

Commissioner of Central Excise
Jalandhar — Respondent

Service Tax Appeal No. 742 of 2008-SM

[Arising out of Order-in-Appeal No. 685-CE /APPL/ Jal/2008 dated 21.10.2008 passed by the Commissioner of Customs & Central Excise (Appeals), Chandigarh]

M/s. GDPA Fasteners — Appellants

Vs.

Commissioner of Central Excise Jalandhar — Respondent

Service Tax Appeal No. 743 of 2008-SM

[Arising out of Order-in-Appeal No. 687-CE /APPL/ Jal/2008 dated 22.10.2008 passed by the Commissioner of Customs & Central Excise (Appeals), Chandigarh]

M/s. Talbro Forgings — Appellants

Vs.

Commissioner of Central Excise Jalandhar — Respondent

Service Tax Appeal No. 744 of 2008-SM

[Arising out of Order-in-Appeal No. 688-CE /APPL/ Jal/2008 dated 22.10.2008 passed by the Commissioner of Customs & Central Excise (Appeals), Chandigarh]

M/s. I.J.Tools & Castings P. Ltd. — Appellants

Vs.

Commissioner of Central Excise Jalandhar — Respondent

Service Tax Appeal No. 745 of 2008-SM

[Arising out of Order-in-Appeal No. 463-CE /APPL/ Jal/2008 dated 19.09.2008 passed by the Commissioner of Customs & Central Excise (Appeals), Chandigarh]

M/s. Forging & Chemicals Indus Appellants

Vs.

Commissioner of Central Excise Jalandhar Respondent

Appearance:
Shri Sudhir Malhotra, Advocate for the Appellants
Shri B.L. Soni, AR for the Respondent

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

Final **ORAL ORDER NO.** ST/A/487 – 491/12-Cus

Per Archna Wadhwa (for the Bench):

As the issue involved in all these appeals is identical, a common order is being passed.

2. The short issue involved is as to whether the appellants are entitled to the Cenvat credit of Service Tax paid on commission paid to overseas agents under the category of Business auxiliary services. Revenue by entertaining the view that such overseas agents services are not covered by the definition of input services, initiated proceedings for recovery of the credit availed by the appellants, resulting in passing of the impugned orders.

3. After hearing both sides, we find that the issue is no more res integra and stands settled by various decisions of the Tribunal. One such reference can be made to Tribunal's decision in the case of Cadila Healthcare vs. CCE, Ahmedabad reported as [2010 (17) STR 134 (Tri-Ahmd)] wherein it was held that foreign commission agent services are admissible cenvatable services inasmuch as the same are for sale promotion.

4. To the similar effect is another decision of the Tribunal in the case of Commissioner of Central Excise, Jalandhar vs. Ambika Forgings reported as [2010 (259) ELT 593 (Tri-Del)] laying down that overseas commission agent services promotes the assessee's business activities and adds to Revenue earning by manufacture and sale of incremental quantity, activity may have nexus to such sales and Service Tax paid on such services has to be held as includable in the definition of inputs services.

5. Inasmuch as the issue is settled, we set aside the impugned orders and allow all the appeals with consequential relief to the appellants.

(Pronounced in the open court)

(Archana Wadhwa)
Member(Judicial)

(Mathew John)
Member(Technical)

ss