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

COURT NO. III

DATE OF HEARING : 19/01/2017.
DATE OF DECISION : 19/01/2017.

Service Tax Appeal No. 59690 of 2013

[Arising out of the Order-in-Appeal No. 63 (VC) ST/JPR-I/2013 dated 31/05/2013 passed by The Commissioner (Appeals-I), Central Excise & Customs, Jaipur.]

M/s Shri Ram Ice Factory — Appellant

Versus

CCE & ST, Jaipur – I — Respondent

Appearance

Shri Abhishek Jaju, Advocate – for the appellant.

Shri Amresh Jain, Authorized Representative (DR) – for the Respondent.

CORAM: **Hon'ble Shri S.K. Mohanty, Member (Judicial)**
Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No. 50450/2017 Dated : 19/01/2017

Per. B. Ravichandran :-

The short issue involved in this appeal is the appellant's liability to service tax under the category of Business Auxiliary Service for the activity of chilling the milk.

2. Heard both the sides and perused the appeal records. Both the sides agree that the matter has already been settled by the

Tribunal in earlier cases on identical set of facts. The Tribunal held that chilling of milk cannot be taxed under Business Auxiliary Service as the process amounts to manufacture in terms Note 6 of Chapter 4 of Central Excise Tariff. Following the decision already arrived at by the Tribunal in similar cases we allow the appeal and set aside the impugned order. A reference in this regard can be made to decision of the Tribunal in **Vinayak Industries vs. CCE & ST, Jaipur – I** reported in **2016 (45) S.T.R. 191 (Tri. – Del.)**. The appeal is allowed.

(Order dictated and pronounced in open court.)

(S.K. Mohanty)
Member (Judicial)

(B. Ravichandran)
Member (Technical)

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