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

Date of Hearing/Order: 28.2.2017

Appeal No. ST/1611/2011-(DB)

(Arising out of Order-in-Appeal No. IND/CEX/000/329/11 dated 5.8.2011 passed by the Commissioner (Appeals), Customs, Central Excise & Service Tax, Indore)

M/s Grasim Industries Ltd. Appellant

Vs.

CCE, Indore Respondent

Appearance

Shri Rachit Jain, Advocate - for the appellant

Shri Ranjan Khanna, D.R. - for the respondent

CORAM: **Hon'ble Mr. S.K. Mohanty, Member (Judicial)**
Hon'ble Mr. Ashok K. Arya, Member (Technical)

Final Order No. 54881/2017

Per S.K. Mohanty:

This appeal is directed against the impugned order dated 5.8.2011 passed by the Commissioner (Appeals), Customs, Central Excise & Service Tax, Indore.

2. Brief facts of the case are that the appellant is a Public Limited company, incorporated under the Companies Act, 1956. The appellant through its manufacturing units located at different places, is engaged inter alia, in the manufacture of excisable goods. The

chemical division of the appellant is located in the State of Nagda, Madhya Pradesh and is engaged in production and clearance of inorganic chemicals. Such division is duly registered with the service tax department for providing the taxable service namely, renting of immovable property service. During the relevant period, the appellant held an immovable property at New Delhi which was given for use to its units viz. Grasim Industries Ltd. (Staple Fibre Division) and Vikram Ispat Industries. The department conducted the audit in the premises of the appellant and observed that providing the office space by the appellant to Staple Fibre Division and Vikram Industries should fall under the taxable category of renting of immovable property service. The matter was adjudicated vide order dated 31.1.2011, wherein service tax demand of Rs.11,20,525/- was confirmed along with interest. Besides penalties were imposed under Sections 76 and 78 of the Finance Act, 1994. On appeal, the adjudged demand was confirmed by the Commissioner (Appeals). Hence, the present appeal is before this Tribunal.

3. The ld. Advocate for the appellant submits that since the appellant has provided office space to the other units, it can be said that there are involvement of two juristic persons, one as the service receiver and other as the service provider, to fall within the ambit of taxable category of renting of immovable property service. He submits that both the units are covered under one legal entity and

cannot be separated for consideration as separate entities for the purpose of levy of service tax. To substantiate such stand, the ld. Advocate relied on the decisions of this Tribunal in the cases of ***Indian Oil Corporation Ltd. Vs. CCE*** – 2007 (8) STR 527 (Tri.-Chennai), ***Precot Mills Ltd. Vs. CCE*** – 2006 (2) STR 495 (Tri.) and ***Senior Terminal Manager, IOC Vs. CCE –*** 2010 (19) STR 424 (Tri.-Mad.).

4. On the other hand, ld. AR appearing for the Revenue reiterates the findings recorded in the impugned order.

5. Heard both sides and perused the record.

6. It is an admitted fact on record that the appellant was duly incorporated under the Companies Act and with different manufacturing units, were controlled and governed by the Public Limited company namely, M/s Grasim Industries Ltd. The appellant prepares consolidated annual accounts and comply with the formalities provided under different statutes. Thus, it cannot be said that the incorporated company provides the services to its other units. In other words, different units and the company as a whole, cannot be separated in order to construe that both the company as well as the units are separate and the disputed service has been

provided by one unit to the other unit. We find that on the identical set of facts, this Tribunal in the aforementioned cases cited by the appellant has held that the service provided by the company to its different units cannot be subjected to levy of service tax, since, there is no service provided from one person to another.

7. In view of the above, we do not find any merits in the impugned order. Accordingly, after setting aside the same, we allow the appeal in favour of the appellant, with consequential benefits.

(Dictated & pronounced in open Court)

(Ashok K. Arya) Member (Technical)	(S.K. Mohanty) Member (Judicial)

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