

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI

PRINCIPAL BENCH, COURT NO. II

Service Tax Appeal No. 363 of 2009 - Cus(Br)

[Arising out of Order-In-Appeal No. 14/ST/Appl/Jal /2009 dated 12.2.2009 passed by
Commissioner of Customs & Central Excise (Appeals) Chandigarh]

For approval and signature:

Hon'ble Mr Ashok Jindal, Member (Judicial)

Hon'ble Mr. R K Singh, Member (Technical)

1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?
2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?
- 3 Whether Their Lordships wish to see the fair copy of the Order?
- 4 Whether Order is to be circulated to the Departmental authorities?

M/s. Tarsem Mittal & Sons

Appellants

Vs.

Commissioner of Central Excise
Jalandhar

Respondent

Appearance:

None for the Appellants

Ms Suchitra Sharma, AR for the Respondent

CORAM:

Hon'ble Shri Ashok Jindal, Member (Judicial)

Hon'ble Mr. R K Singh, Member (Technical)

Date of Hearing /decision: 19.12.2014

FINAL ORDER NO. A /54796 /2014-Cu(Br)

Per Ashok Jindal :

Appellant is in appeal against the impugned order wherein service tax demand has been confirmed against them under the category of Business Auxiliary services.

2. Brief facts of the case are that appellant is an agent of Western Union on whose behalf appellant is disbursing money to the persons directed by Western Union who is located outside India. Revenue is of the view that as the service has been performed in India therefore, the service is received by Western Union in India. Therefore appellant is liable to pay service tax under the category of Business Auxiliary services for the commission received by the appellant for disbursing money to a person directed by Western Union .

3. None appeared on behalf of the appellant nor any adjournment request received. Considering the fact that issue has already been decided by this Tribunal, therefore matter is taken up for disposal on its own merits.

4. As in similar circumstances, in the case of Paul Merchant this Tribunal has held that in such a cases since services although performed in India but the respondent is located outside India and services has been provided on behalf of the recipient located outside

India. Therefore, it falls under the export of services. In these circumstances, this Tribunal has held that no service tax is payable by the assessee under the category of Business Auxiliary services. Therefore, following the precedent decision of the Tribunal, appellant is not required to pay service tax on their activity under the category of Business Auxiliary services.

5. With these observations impugned order is set aside. Appeal is allowed with consequential relief if any.

(Dictated and pronounced in the open court)

(Ashok Jindal)
Member (Judicial)

(R K Singh)
Member (Judicial)