(2015) 10 CESTAT CK 0006

In the Customs, Excise And Service Tax Appellate Tribunal

Case No : Service Tax Appeal No. 531 Of 2009

CCE, Indore APPELLANT

Vs

M/s Deepak Spinners Limited RESPONDENT

Date of Decision : 09-10-2015

Acts Referred:

Citation : (2015) 10 CESTAT CK 0006

Hon'ble Judges : G. Raghuram, J;R. K. Singh, Technical Member

Bench : Division Bench

Advocate : Suchitra Sharma, Mayank Garg

Final Decision : Allowed

Judgement

1. Revenue has filed this appeal against order-in-appeal dated 22.04.2009 on the ground that the Commissioner (Appeals) had allowed payment of

service tax on the GT A service from cenvat credit which is not permitted as GTA service was not appellant's output service and service tax was

payable by the appellant under reverse charge mechanism, while cenvat credit can be utilised for paying service tax on output service. In this regard,

we notice that in the appellants own case reported as CCE, Chandigarh vs. Deepak Spinners Ltd. - 2013 (32) STR 531 (H.P.), High Court of

Himachal Pradesh held that cenvat credit can be utilised for payment of service tax on GTA service. In the case of Commissioner vs. Nahar

Industrial Enterprises Ltd. - 2012 (25) STR 129 (P&H,) Punjab & Haryana High Court has also held that cenvat credit can be utilised for payment of

service tax on GTA service under reverse charge mechanism. Similar view has been taken by the Delhi High Court in the case of CST vs. Hero

Honda Motors Ltd. - 2013 (29) STR 358 (Del.). Thus, the issue involved in this case is no longer res integra and has been settled in appellant's favour.

Therefore, we set aside the impugned order and allow the appeal.

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