FAX : 0532-2400149 REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 12/01/2018

To

Appellant as per address in table below
Respondent as per address in table below

Final Order No. ST/A/70154-70155/2018-CU[DB] dated 09/01/2018

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 01(5) ~~of the~~ **Finance Act, 1994 relating to Service Tax Act, 1994.**

Asstt. Registrar

	Application	Appeal	Name and Address of Appellant
1	ST/CROSS/3191/2012	ST/919/2012	**Commissioner of Central Excise and Service Tax-Lucknow** 7-A...ASHOK MARG, LUCKNOW, UTTAR PRADESH 226001
2	ST/CROSS/3192/2012	ST/920/2012	**Commissioner of Central Excise and Service Tax-Lucknow** 7-A...ASHOK MARG, LUCKNOW, UTTAR PRADESH 226001
			Name and Address of Respondent
3			Sandeep Rajeev And Company 311,saran Chamber-2,5-park Road, Lucknow.,,
4			Mrc Share Portfolio 2nd Floor, Bansal Complex, Faizabad Road, Indira Nagar.,,

Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s):

S. N. Srivastava, Adv.
C-5, Sector - B, Aliganj,
Lucknow,
Uttar Pradesh

6 Bar Association, CESTAT, Allahabad

7 Director Publications, Customs, Excise. I.P. Estate, Delhi

8 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3

9 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

10 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

11 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

12 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

13 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

14 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

15 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court.Delhi-110032

16 C.D.R. 17 Office Copy 18 Second Folder Copy 19 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

REGIONAL BENCH : ALLAHABAD

COURT No. I

CROSS Application Nos. ST/CROSS/3191 & 3192/2012

APPEAL Nos. ST/919 & 920/2012-CU[DB]

(Arising out of Order-in-Appeal No. 110-111-ST/APPL/KNP/2012 dated 28/03/2012 passed by Commissioner (Appeals), Customs, Central Excise & Service Tax, Kanpur)

Commissioner of Central Excise & Service Tax, Lucknow — **Appellant (s)**

Vs.

M/s MRC Share Portfolio,

Shri Sandeep Rajeev and Company — **Respondent (s)**

Appearance:

Shri Pawan Kumar Singh (Supdt.) AR — for Appellant

Absent on call — for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 02/01/2018

Date of Decision : 09/01/2018

FINAL ORDER NOs. 70154-70155/2018

Per: Archana Wadhwa

Being aggrieved with the order passed by Commissioner (Appeals) Revenue has filed the present appeals. Inasmuch as both the appeals are arising from the same impugned order, they are being disposed of by a common order.

2. The respondents are sub-brokers of a broker agent M/s Ventura Securities Ltd., Bombay. As the respondents were not paying any service tax on the commission earned by

them, proceedings were initiated resulting in confirmation of demand of service tax, alongwith imposition of penalties.

3. Commissioner (Appeals) vide his impugned order took into consideration the assessee's plea that their principal broker has discharged the entire service tax liability and as such tax cannot be demanded from them for the second time, in respect of the same transaction. For better appreciation, we reproduce the relevant Paragraph from the order of Commissioner (Appeals).

"I notice that the appellants vide the instant appeals have submitted that once tax is already paid on the taxable transactions and returns filed by the person who paid the same, there can be no question of demand of service tax once again from the appellants for the same period and for the same transactions. They also submitted that they had filed preliminary objections before the Adjudicating Authority that the service tax on the very same transactions had already been paid for the entire amount and proof of payment was already with the Revenue, but department did not care to look into the preliminary objections of the appellants. We further observe that the appellants also furnished copies of certificates from principal broker to the effect that paid the requisite service tax on behalf of its sub-brokers for the transactions done during the 2005-06 to 2009-10. The appellants also enclosed copies of statements of M/s Ventura Securities Ltd. Mumbai showing

details of Brokerage payments to the appellants sub-brokers as well as payment of service tax thereon for the period from 2005-06 to 2009-10. I find that no liability of service tax lie on the part of the appellants sub-brokers, as due amount of service tax on brokerage payments to the appellants has been charged and collected amount of service tax has been paid to M/s Ventura Securities Ltd. Mumbai. Thus no liability of service tax rests with the appellants sub-brokers while holding so reliance is placed on order of Larger Bench of CESTAT in the case of M/s Vijay Sharma Vs. CCE which has also been relied by the appellant in defence cited supra."

4. The Revenue's only grievance is that the tax should have been paid by the respondents instead of their principal broker. Otherwise Revenue is not disputing the fact that the full service tax stands discharged on the full value of the services. In such a scenario, we find no merits in the Revenue's appeals. The impugned order is accordingly upheld by rejecting appeals filed by the Revenue.

(Pronounced in Court on.....9.|..1|.|8..)

Sd/- **Anil.G. Shakkarwar** **Member(Technical)**	Sd/- **(Archana Wadhawa)** **Member (Judicial)**

प्रमाणित प्रति/Certified True Copy
13/02/18
सहायक रजिस्ट्रार/Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण/(C.E.S.T.A.T.)
38, एम.जी.मार्ग, इलाहाबाद-211001
38, M. G. MARG,ALLAHABAD-211001

Lks