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: 03/01/2018

To

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

Final Order No. ST/A/70041-70042/2018-CU[DB] dated 02/01/2018

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/100/2012	**KASHI VISHWANATH & SONS,** J-12/9-B-C, RAMKATORA, PANDIT KANTHE MARG, VARANASI. (U.P.)
2	ST/101/2012	**K.V. ENTERPRISES,** J-12/9-A-15, RAMKATORA, VARANASI. (U.P.)
		Name and Address of Respondent
3		-C.C.E Allahabad 38,M.G.Marg, civil Lines, Allahabad
4		-C.C.E Allahabad 38,M.G.Marg, civil Lines, Allahabad

Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s):

Subhaschand, Advocate
B-38/1A PLOT NO. 6, NEW B-38/21,
TULSHIPUR, MAHMURGANJ,
VARANASI,
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 AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

ST/100/12 & ST/101/12

Arising out of O/A Nos.161/ST/ALLD/2011 dated 09.11.2011 passed by Commr.(Appeals) of Central Excise, Allahabad.

M/s. K.V.Enterprises

...APPELLANT(S)

VERSUS

Commr. of Central Excise, Allahabad

RESPONDENT (S)

APPEARANCE

Shri Subhash Chand, Advocate for the Appellant (s)
Shri Gyanendra Kumar Tripathi, AC(A.R.) for the Revenue

CORAM:

MRS. ARCHANA WADHWA, HON'BLE(JUDICIAL)
SHRI ANIL G. SHAKKARWAR, MEMBER(TECHNICAL)

DATE OF HEARING/DATE OF DECISION : 02.01.2018

FINAL ORDER NO. 70041-70042/2018

Per Mrs.Archana Wadhwa :

Both the appeals are being disposed of by a common order as the issue involved is identical.

2. The appellants were availing the services of a transporter for movement of their inputs. They were paying the service tax to the transporters, who in turn were depositing the same with the Revenue inasmuch as they were registered service providers with the service tax department.

3. Proceedings were initiated against the appellants on the ground that as per law, it is their obligation to pay the service tax, on reverse charge basis. The proceedings so initiated were dropped by the Assistant Commissioner on the ground that the transporters have already deposited the service tax and has produced a certificate to that effect on record.

4. Being aggrieved with the order passed by the original adjudicating authority Revenue filed appeals before Commissioner(Appeals). The appellate authority did not dispute the fact that the transporters have already deposited the amount, but allowed the appeals on the sole ground that it was the obligation of the GTA service recipient to pay the service tax. Inasmuch as they have not paid the tax to the Revenue, he confirmed the demands, by allowing the Revenue's appeal.

5. We find that there is no dispute about the fact that the service tax was deposited by the transporters with the department. As such the objection of the Revenue cannot be appreciated, as it would amount to double deposit of the same amount of service tax on the same services. The said position has already been considered by the Tribunal in the cases of (1) Umasons Auto Compo Pvt.Ltd. v. CCE & C [2014 (2) TMI 100 – CESTAT MUMBAI], (2) Cronimet Alloys India Ltd. v. CCE, Visakhapatnam-I [2013 (7) TMI 593 –CESTAT BANGALORE] & (3) Navyug Alloys Pvt.Ltd. v. Cce & C, Vadodara-II [2008(8) TMI 100-CESTAT AHMEDABAD].

6. In view of the foregoing we find no reasons to uphold the impugned orders. Accordingly they are set aside and appeals are allowed by restoring the orders of the original adjudicating authority.

(Operative part of the order was pronounced in the open Court)

Sd/-
Anil.G. Shakkarwar
Member(Technical)

Sd/-
(Archana Wadhawa)
Member (Judicial)

sm

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