

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

Dated: 18/10/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. ST/A/78969/2016-CU[DB] dated 02/06/2016

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/Stay/53159/2014, ST/52819/2014<br>ST/COD/53160/2014 |        | KRISHI UTPADAN MANDI<br>SAMITI<br>NAUBASTA HAMIRPUR ROAD<br>KANPUR, UTTAR PRADESH  |
|                                                          |        | Name and Address of<br>Respondent                                                  |
| 2                                                        |        | C.C.E. & S.T.-Kanpur<br>117/7...SARVODYA<br>NAGAR, KANPUR,<br>UTTAR PRADESH-208005 |

Copy To

3 Advocate(s) / Consultant(s):

DHARMENDRA SRIVASTAVA &  
ASSOCIATES, C.A  
15/392(I) CIVIL LINES,  
KANPUR, UTTAR PRADESH

4 Bar Association, CESTAT, Allahabad

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

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhisham Pitamah Marg, New Delhi-3

7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaidhyaram Street, T. Nagar, Chennai-47

8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohank Road, New Delhi-110005

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

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

11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad - 58

12 The ICFAI society, 52, Nagarjuna Hill, Putrajaya Hyderabad-500082

13 M/S Knowledge Processing Pvt. Ltd. (taxmanagementindia.com), PF-19, 1st Floor, Cross River Mall, CBD

Ground, Near Karkardooma Court, Delhi-110032

14 C.D.R.

15 Office Copy

16 Guard File

Asstt. Registrar

ISSUED ON

SIGN. (DESPATCH SECTION)  
CUSTOMS, EXCISE & SERVICE TAX  
APPELLATE TRIBUNAL  
38, M. G. MARG, ALLAHABAD-211001.

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,  
REGIONAL BENCH : ALLAHABAD

Appeal No.ST/52819/2014- [DB]

WITH

Misc. Application No.ST/COD/53160/2014

&

Stay Application No.ST/STAY/53159/2014

Arising out of Order-in-Original No.03-ST/COMMR/2013 dated 07.03.2013  
passed by Commr.(Appeals) Central Excise & Service Tax, Kanpur.

For approval and signature:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

HON'BLE MR. ANIL G. SHAKKARWAR, 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? : No
  2. Whether it should be released under Rule 27 of the  
CESTAT (Procedure) Rules, 1982 for publication  
in any authoritative report or not? : Yes
  3. Whether His Lordship wishes to see the fair copy  
of the Order? : Seen
  4. Whether Order is to be circulated to the Departmental  
Authorities? : Yes

M/s Krishi Utpadan Mandi Samiti

...APPELLANT(S)

VERSUS

Commissioner of Central Excise & S. Tax, Kanpur

...RESPONDENT (S)

APPEARANCE:

Shri Dharmendra Srivastava, CA for the Appellant (s)

Shri Ashok B. Kulgod Asstt. Commr. (A.R.) for the Department

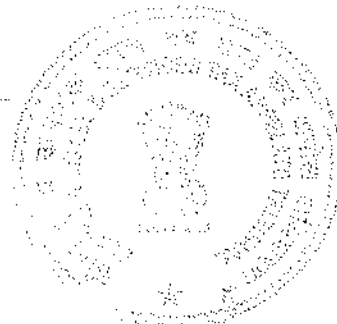
CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

DATE OF HEARING & PRONOUNCEMENT : 02.06.2016

FINAL ORDER NO. - 70969/2016



Per Mr. Anil Choudhary :

The appellant, Ms/ Krishi Utpadan Mandi Samiti, is in appeal against Order-in-Original No.03-ST/COMMR/2013 dated 07.03.2013 passed by Commr.(Appeals) Central Excise & Service Tax, Kanpur.

2. The appeal have been filed beyond 323 days from the limitation period. The learned counsel for the appellant urges that the appellant is a statutory body under the U.P. Krishi Utpadan Mandi Adhiniyam, 1964. Under the circumstances, due to the official procedure<sup>in</sup> the appellant's office a natural delay took place in appointing the consultant to draft and filed<sup>in</sup> the appeal and also in the decision for filing the appeal. It is further urged that the appellant have deposited the full amount of Service Tax as per the demand notice before filing the appeal. The appellant will suffer irreparable loss and injury if the delay is not condoned<sup>in</sup> in the interest of Justice.

3. Learned A.R. for Revenue opposes the prayer for condonation.

4. Having considered the rival contentions, we find it just and proper to condone the delay in filing the appeal in the interest of Justice.

4.1 As the appeal of the year 2014, we take up both the Stay Application and the Appeal itself for final hearing. Heard the parties.

*[Handwritten signature]*

5. The learned counsel for the appellant, Mr. Dharmendra Srivastava states that they do not want to press ground numbers (ii) <sup>to</sup> (vii) as contained in the prayer portion of the appeal. These grounds are on the merits, challenging the taxability of rent received in the hands of the appellant and also the invocation of extended period of limitation. The next ground <sup>is</sup> urged that, it is an admitted fact that the appellant have not charged Service Tax from the receivers of service being renting of immovable property. Accordingly, it is pleaded that <sup>cum</sup> come-duty benefit for calculation of service tax be allowed. It is also urged that under the facts and circumstances, the appellant being a Statutory body, the compliance under Service Tax was not made only due to lack of knowledge and/or instructions from the Administrative Authority of the appellant. The transaction in dispute are duly recorded in the books of accounts, ordinarily maintained by the appellant. The demand have been raised on the basis of information furnished to the Revenue by the appellant. Accordingly, there being no contumacious conduct and/or deliberate default on the part of the appellant, the penalty is fit urged to be set aside.

6. The learned A.R. for revenue have supported the impugned order passed by the Commissioner.

7. Having considered the <sup>original</sup> contentions, we are satisfied that it is a fit case for allowing the cum-duty benefit for calculation of Service Tax and accordingly, we allow this ground. Under the facts and



