REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
OLD RED BUILDING, 38,M.G.Marg,CIVIL LINES, ALLAHABAD

Dated: 07/10/2015

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/ 70022-70035 /2015- dated 16/09/2015

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section **35-C(1) of the Central Excise and Salt Act, 1944.**

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
	ST/1357-1369/2010&ST/618/2009	COMISSIONER OF CENTRAL EXCISE, KANPUR 117/7, SARVODAYA AGAR, KANPUR.

Name and Address of Respondent	CALICO TRENDS 60-A, 150FT ROAD, JAJMAU, KANPUR.

Other Appellants and Respondents as per Annexure

Copy To

3Advocate(s) / Consultant(s): SH DHARMENDRA SRIVASTAVA,CA
13/392,1, CIVIL LINES, KANPUR

SURABHI SINHA,ADV

ANURAG MISHRA,ADV

4 Bar Association, CESTAT, Delhi
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), Vaithyaram Street, T. Nagar, Chennai-17
8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005
9 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15
10 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
11 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi – 110070
12 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38
13 The ICFAI society, 52, Nagarjuna Hill, Punjagotta Hyderabad.-500082
14 C.D.R. 15 Office Copy 16 Guard File

Asstt. Registrar
Regional Bench, Allahabad

MODEL TANNERS
(INDIA) PVT. LTD.,
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KANPUR.

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INTERNATIONAL,
21/68, FREE GANG,
AGRA. (U.P.)

TEJ SHOES TECH,
10TH-11TH, MILE STONE
AGRA MATHURA ROAD.
(U.P.)

VIROLA EXPORTS,
21/46, FREE GANG,
AGRA.(U.P.)

[illegible] EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CIRCUIT BENCH AT ALLAHABAD

Appeal No. ST/1357 to 1369/2010 & ST/618/2009

(Arising out of Orders-in-Appeal No. 336 to 348-ST/APPL/KNP/2010 dated 30.6.2010 passed by the Commissioner of Central Excise & Service Tax (Appeals), Kanpur).

For approval and signature:

Hon'ble Shri P.S. Pruthi, Member (Technical)
Hon'ble Shri S.S. Garg, Member (Judicial)

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 their Lordships wish to see the fair copy of the order?	:	Seen
4.	Whether order is to be circulated to the Departmental authorities?	:	Yes

Commissioner of Central Excise, Kanpur — Appellant

Vs.

Respondents

1. M/s Calico Trends
2. M/s Model Tanners (India) Pvt. Ltd.
3. M/s Super Tannery Ltd.
4. M/s Super House Ltd.
5. M/s Super House Ltd.
6. M/s Mirza International Ltd.
7. M/s Rahman Industries Ltd.
8. M/s Allahabad Tannery
9. M/s Tej International (P) Ltd.
10. M/s R.N. Bajaj Overseas
11. M/s Virola International,
12. M/s Tej Shoes Tech.
13. M/s Virola Exports
14. M/s Virola International

Appearance:

Shri G.K. Dixit, Addl. Commr. (AR) : for Appellant

Shri Dharmendra Srivastava, C.A. for Respondents No. 1 to 5
Shri Anurag Mishra, Advocate for Respondent No. 6
Ms. Surabhi Sinha, Advocate for Respondents No. 9, 11, 12, 13 & 14

CORAM:

SHRI P.S. PRUTHI, MEMBER (TECHNICAL)
SHRI S.S. GARG, MEMBER (JUDICIAL)

Date of Hearing: 16.09.2015

Date of Decision: 16.09.2015

Final ORDER NO. 70022-70035/2015

Per: P.S. Pruthi

The short point arising in these appeals is whether Service Tax is payable by service recipients i.e. Indian manufacturer exporters, who paid commissions to foreign based service providers whose services were availed for procuring orders for the Indian based exporters. The period involved in all the cases is prior to 18.4.2006.

2. The Hon'ble Bombay High Court in the case of *Indian National Ship Owner's Association Vs. Union of India – 2009 (13) STR 235 (Bom)* held as under: -

> *"It appears that it is first time when the Act was amended and Section 66A was inserted by Finance Act, 2006 w.e.f. 18-4-2006, the Respondents got legal authority to levy service tax on the recipients of the taxable service. Now, because of the enactment of Section 66A, a person who is resident in India or business in India becomes liable to be levied service tax when he receives service outside India from a person who is non-resident or is from outside India. Before enactment of Section 66A it is apparent that there was no authority vested by law in the Respondents to levy service tax on a person who is resident in India, but who receives services outside India. In*

that case till Section 66A was enacted a person liable was the one who rendered the services. In other words, it is only after enactment of Section 66A that taxable services received from abroad by a person belonging to India are taxed in the hands of the Indian residents. In such cases, the Indian recipient of the taxable services is deemed to be a service provider. Before enactment of Section 66A, there was no such provision in the Act and therefore, the Respondents had no authority to levy service tax on the members of the Petitioners-association."

Thereafter Board vide Circular F. No. 276/5/2009-CX-8A accepted the position that ST liability in such cases would arise from 18.4.2006 only.

3. In view of the settled position, the impugned orders are upheld and Revenue's appeals are dismissed.

(Pronounced in Court)

Sd/-
(S.S. Garg)
Member (Judicial)

Sd/-
(P.S. Pruthi)
Member (Technical)

प्रमाणित प्रति / Certified True Copy
14.10.17
Asstt. Registrar