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

Dated: 04/03/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/ 70099-70100/2016 DB dated 22/01/2016

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/1457&1300/2010	MALWA VEHICLES PVT LTD NEAR TULSI CINEMA, BYE PASS ROAD, AGRA
		KRISHNA FINANCIAL SERVICE SHOP NO 6, 4TH FLOOR RAMAN TOWER, SANJAY PLACE AGRA
	Name and Address of Respondent	COMMISSIONER OF CENTRAL EXCISE KANPUR. 117/7,SARVODAYA NAGAR KANPUR

Other Appellants and Respondents as per Annexure

Copy To

3Advocate(s) / Consultant(s SH K.K.ANAND,ADV
A-103, DEFENCE COLONY
NEW DELHI-24

4 Bar Association, CESTAT, ALLAHABAD

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

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm 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, Punjagutta Hyderabad.-500082
14 C.D.R. 15 Office Copy 16 Guard File

Asstt. Registrar
Regional Bench, Allahabad

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

S.T. Appeal Nos.1457 & 1300/10

Arising out of O/A Nos.353 & 350/ST/APPL/KNP/2010 dated 05.07.2010 both passed by Commr. (Appeals) of Customs & Central Excise & S.Tax, Kanpur.

For approval and signature:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. H. K. THAKUR, MEMBER (TECHNICAL)

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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

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M/s Malwa Vehicles Pvt. Ltd.
M/s Krishna Financial Services

...APPELLANT(S)

VERSUS

CCEx. & S.Tax, Kanpur

RESPONDENT (S)

APPEARANCE

Shri Varun Prakash & Ms.Surabhi Sinha, both Advocates for the Appellant (s)
Shri Pawan Kumar Singh, Supdt. (A.R.) for the Department

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. H. K. THAKUR, MEMBER (TECHNICAL)

DATE OF HEARING & PRONOUNCEMENT : 22. 01. 2016

Final ORDER NO. 70099-70100/2016

Per Mr. Anil Choudhary :

Heard the parties.

2. The issue involved in these appeals, is whether in the fact that an earlier show-cause notice was issued involving extended period, whether subsequent show-cause for the same matter (overlapping the period in earlier SCN), can be issued invoking the extended period of limitation.

3. For sake of convenience, we refer to the facts in Appeal of M/s Krishna Financial Services.

4. The brief facts are that earlier SCN dated 13.02.2007, was issued on the same facts and circumstances for the period from May, 2004 to March, 2006. The dispute stands finally resolved by Final Order dated 29.08.12, of this Tribunal in Appeal No.ST/757 & 783/2008, wherein it was held that there is no suppression of facts or contumacious conduct on the part of the assessee. There was confusion prevailing as regards classification of service, as provided by appellants. Accordingly, demand for only normal period was confirmed, up~~loa~~holding dropping of penalty by Commissioner (Appeals).

5. Ld.A.R. for Revenue, agrees that the facts and circumstances are similar in the present appeals as well as previous appeal.

6. Having considered the rival contentions, we hold that extended period of limitation, is not invokable. Demand for normal period is confirmed. No penalty is leviable under Sections 76, 77 & 78.

7. Penalty in the case of M/s Malwa Vehicles Pvt. Ltd., under Sections 76, 77 & 78, are also set aside.

8. Thus, appeals are allowed in part.

(Pronounced in the open Court)

Sd/-

(H.K.THAKUR)
MEMBER (TECHNICAL)

Sd/-

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

mm

प्रमाणित प्रति / Certified True Copy
15.3.16

सहायक पंजीकार / 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