

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

Dated: 14/1/2016

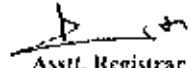
To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/ 70024-70025/2016 SM & MISC ORDER NO 70008-70009/2016&STAY  
ORDER NO 70010-70011/2016 dated 12/1/2016

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/MISC/70002,<br>51784&51785/15<br>ST/STAY/56780-<br>56781/2013 | ST/56315-<br>56316/2013 | UTILITY POWERTECH LTD<br>UPL OFFICE, BEHIND IT CENTRE<br>NTPC LTD RH STPP RIHAND<br>NAGAR, BIJPUR, SONEBHADRA (UP) |

S C SHARMA  
UTILITY POWERTECH LTD  
UPL OFFICE, BEHIND IT CENTRE  
NTPC LTD RH STPP RIHAND  
NAGAR, BIJPUR, SONEBHADRA

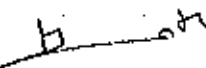
|                                   |                                        |
|-----------------------------------|----------------------------------------|
|                                   | CCE, ALLAHABAD                         |
| Name and Address<br>of Respondent | 38 M.G. MARG<br>CIVIL LINES, ALLAHABAD |

Other Appellants and Respondents as per Annexure

**Copy To**

3 Advocate(s) / Consultant(s) SH RAJESH CHIMBER, ADV  
FA-9 KAVI NAGAR  
GHAZIABAD

- 4 Bar Association, CESTAT, Delhi
- 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 Advisers Pvt. Ltd., LAW House, I-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 - 58
- 13 The ICAI 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**

**MA-70002,51784 & 51785/15 &  
SPs-56780,56781/13 &  
S.T. Appeal Nos.56315,56316/13**

Arising out of O/O No.(ST-148/2011) 39 of 2012 dated 05.12.2012  
passed by Commr. of Central Excise & S.Tax, Allahabad

**For approval and signature:**

**HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)  
HON'BLE MR. H. K. THAKUR, 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 Utility Powertech Ltd.  
Shri S. C. Sharma

...APPELLANT(S)

VERSUS

Commr. of Central Excise & S.Tax, Allahabad

RESPONDENT (S)

APPEARANCE

Shri Rajesh Chibbar, Advocate for the Appellant (s)  
Shri M. K. Mall, Joint.Commr. (D.R.) for the Department

**CORAM:**

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

**DATE OF HEARING & PRONOUNCEMENT : 12. 01. 2016**

**Final ORDER NO. 70024-70025/2016  
MISC ORDER No. 70008-70009/2016  
STAY ORDER No. 70010-70011/2016**

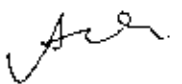


**Per Mr. Anil Choudhary :**

Heard the parties. The Appellant is in appeal against the Order-In-Original No.(ST-148/2011) 39 of 2012 dated 05.12.2012 passed by Commr. of Central Excise & S.Tax, Allahabad.

2. The main ground of the appellant was that they did not have proper opportunity of hearing. Further, In the show-cause notices served about four or more service, had been clubbed without giving break-up servicewise and demand confirmed. This Tribunal vide Interim Order dated 23.09.2014, appreciating the lack of opportunity of hearing, directed the appellant to file further details etc. In support of their contention before the Id.Commissioner (Appeals) by 31<sup>st</sup> October, 2014 and thereafter, the Id.Commissioner (Appeals) was required to look into them and file report to this Tribunal by 2<sup>nd</sup> December, 2014, which was the date fixed. Thereafter, the matter was not taken up on three or four dates fixed. Revenue have filed Misc.Application No.70002/15 stating the progress in the matter and acknowledgement that the number of documents have been filed and as the time scheduled fixed, could not be adhered to, that they have prayed for extension of time and suitable directions. The Appellant also filed Misc.Application for extension of time, as all the documents, etc. could be filed only later than the time fixed, and prays that all the documents etc. may be considered by the Id.Commissioner and appellants be given an opportunity of hearing before any report is sent sent to this Tribunal.

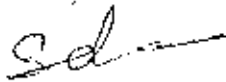
3. After considering the rival submissions, we find just and proper to allow the Misc.Applications. In the interest of justice, we allow the



appeal by way of remand with the direction to the Id.Commissioner to consider all the documents which have been filed till date and also to consider the other documents which may be produced during the course of hearing and also to grant opportunity of hearing to the appellant before passing the order. Pursuant to the remand, the appellants are also directed to appear before the Id.Commissioner with a copy of this order and seek opportunity of hearing within a period 30 days from the date of receipt of the copy of this order.

4. All the Misc.Applications stand allowed and the appeals are allowed by way of remand. Stay Petitions also stand disposed off.

(Dictated and pronounced in the open Court)



**(H.K.THAKUR)**  
**MEMBER (TECHNICAL)**



**(ANIL CHOUDHARY)**  
**MEMBER (JUDICIAL)**

mm

प्रमाणित प्रती / Certified True Copy  
21.1.16  
सहायक रजिस्ट्रार / Asstt. Registrar  
सीमा शुल्क, आयात शुल्क एवं सेवा कर  
अपील अधिकार / (C.E.S.T.A.T.)  
38, एन. जी. मार्ग, इलाहाबाद-211001  
38, M. G. MARG, ALI AHABAD-211001