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: 30/12/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71192/2016-SM[BR] dated 26/12/2016

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/780/2010	**S K SHARMA** E-58, LUNA STREET, BIDHAN NAGAR, DURGAPUR, DISTT. BURDWAN, WEST BENGAL.
		Name and Address of Respondent
2		-C.C.E Allahabad 38,M.G.Marg, civil Lines, Allahabad

Copy To

3 Advocate(s) / Consultant(s): SH PRABHAT KUMAR,ADV
B-51(BASEMENT) SARVODAYA ENCLAVE
NEW DELHI-17

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 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 – 38

12 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

13 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-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

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

Appeal No. : ST/780/2010-ST[SM]

Arising out of OIA No. 5/ST/ALLD/2010 dated 29.01.2010 passed by Commissioner (Appeals), Allahabad.

S.K. Sharma ...APPELLANT

VERSUS

C.C.E. –Allahabad ...RESPONDENT

APPEARANCE

Shri Satish Kumar Sharma, Consultant for the appellant.
Shri D.K. Deb, Asstt. Commr. (A.R.) for the Department

CORAM:

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

DATE OF HEARING & PRONOUNCEMENT : 26. 12. 2016

FINAL ORDER NO. 71192/2016

Per Mr. Anil G. Shakkarwar :

The present appeal is against the Order-in-Appeal No. 5/ST/ALLD/2010 dated 29.01.2010 passed by Commissioner (Appeals), Allahabad.

2. The brief facts of the case are that, for the period from 16.08.2002 to 31.03.2005, the appellant in individual capacity rendered services of Cargo Handling to M/s. Steel Authority of India Ltd. and did not pay any service tax on the said service. It appeared

to Department that service tax was payable by the appellant so appellant was issued with a show cause notice dated 17.10.2007 calling upon the appellant to show cause as to why services rendered by him during the aforesaid period should not be treated as the Cargo Handling service and why he should not pay an amount of Rs. 7,04,222/- towards service tax under Section 73 of Finance Act, 1994. There were proposals for interest and penalty. The appellant reportedly paid service tax demanded and interest in the month of November, 2007. The said show cause notice was adjudicated through Order-in-Original No. (S. Tax-23/2008) 48 of 2008 dated 07.11.2008. The Original Authority confirmed the demand and appropriated the amount already deposited. He ordered the appellant to pay interest. He imposed penalty under Sections-76, 77 & 78 of Finance Act, 1994. Aggrieved by the said order, appellant preferred appeal before Commissioner (Appeals). Commissioner (Appeals) decided the appeal through impugned Order-in-Appeal dated 29.01.2010. The learned Commissioner (Appeals) modified the said Order-in-Original and set aside the penalty imposed under Section 76 of Finance Act, 1994. Aggrieved by the said Order-in-Appeal, the appellant is before this Tribunal.

3. Shri S.K. Sharma, employee of appellant has contended that during the relevant period they were also providing similar service in Nagpur (District of Maharastra) to same service receiver i.e. M/s. Steel Authority of India Ltd. and similar show cause notice was also issued in respect of the services rendered at Nagpur. The

proceedings arising out of said show cause notice reached West Zonal Bench of this Tribunal at Mumbai and through Final Order No. A/86636/16/STB dated 09.03.2016, the appeal before West Zonal Branch of this Tribunal was decided wherein the service tax liability and interest were upheld and penalties were set aside.

4. Learned D.R. has supported the impugned Order-in-Appeal.

5. Having considered the rival contentions, I find that the precedent decision of this Tribunal, as stated above i.e. Final Order dated 09.03.2016 is squarely applicable in the present case. I, therefore, uphold the service tax liability and interest adjudicated through the proceedings of lower authorities and set aside the penalties imposed. In above terms, the appeal is allowed.

(Pronounced and dictated in the open Court)

(Anil G. Shakkarwar)
Member (Technical)

Patel/-

प्रमाणित प्रति / Certified True Copy
6.1.17
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