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: 26/12/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71148/2016-SM[BR] dated 09/12/2016

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/834/2009	**HARIG INDIA PVT LTD** Unit No 1, G.T. Road, Mohan Nagar, Ghaziabad.
		Name and Address of Respondent
2		-C.C.E. GHAZIABAD C.G. O. Complex-II, Kamla Nehru Nagar, Ghaziabad 201302

Copy To

3Advocate(s) / Consultant(s):

R. C. Vachher
113, NAVJEEVAN VIHAR,
NEW DELHI,

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 & SERVICE TAX APPELLATE TRIBUNAL

REGIONAL BENCH : ALLAHABAD

COURT No. 1

APPEAL No. ST/834/2009-ST[SM]

(Arising out of Order-in-Appeal No. 195-CE/APPL/GZB/2009 dated 31/07/2009 passed by Commissioner of Central Excise & Customs (Appeals), Meerut-I)

For approval and signature:

Hon'ble Mr. Anil Choudhary, Member (Judicial)

1.	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2.	Whether it would 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 Department Authorities?	Yes

M/s Harig India Pvt. Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Ghaziabad **Respondent**

Appearance:

Shri S.K. Mathur, Advocate, for Appellant
Shri Rajeev Ranjan, Joint Commissioner (AR), for Respondent

CORAM:

Hon'ble Mr. Anil Choudhary, Member (Judicial)

Date of Hearing & Date of Decision: 09/12/2016

FINAL ORDER NO. 71148/2016

Per: Anil Choudhary

The present appeal is filed by the appellant, M/s Harig India Pvt. Ltd., against the Order-in-Appeal No. 195-CE/APPL/GZB/2009 dated 31/07/2009 passed by Commissioner of Central Excise & Customs (Appeals), Meerut-I)

2. The issue in this appeal by the appellant-assessee is - whether Service tax can be levied or charged prior to enactment of Section 66A of Finance Act, 1994 (with effect from 18/04/2006).

3. The admitted facts of the case are that Show Cause Notice, dated 05/02/2008, was issued pursuant to audit wherein it was noticed that the appellant-assessee have paid an amount of Rs.39,60,500/- to M/s Hema Traktor, Turkey for obtaining technology, patent and design, which appeared to Revenue, comes under intellectual property right service.

4. Heard both the parties.

5. Having considered the rival contentions, I find that the issue herein is squarely covered by the ruling of Hon'ble Bombay High Court in the case of Indian National Shipowners Association *Versus* Union of India reported at 2009 (13) S.T.R. 235 (Tri. – Bombay) wherein it has been held that no Service tax can be levied on reverse charge basis prior to 18/04/2006, when section 66A of Finance Act, 1994, was brought on statute, providing for levy of Service tax on reverse charged basis.

6. Accordingly, the appeal is allowed and the impugned order is set aside. The appellant will be entitled to consequential benefits, if any, in accordance with law.

(Dictated and pronounced in Court)

Sd/-

(Anil Choudhary)
Member (Judicial)

Ansari

प्रमाणित प्रति / Certified True Copy

28.12

सहायक पंजीयक / Asstt. Registrar
सीमा शुल्क, उत्पाद शुल्क एवं सेवा कर
अपील अधिकरण / (C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001