REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 07/09/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. ST/A/70785/2016-CU[DB] dated 01/09/2016

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/Stay/51326/2014	ST/51140/2014	INDIA PRESIDENTS LTD INDUSTIAL ARAE,DEVA ROAD,CHINHAT LUCKNOW U.P

Name and Address of Respondent

2 C.C.E. & S.T.-LUCKNOW
7-A...ASHOK MARG,
LUCKNOW,
UTTAR PRADESH-
226001

Copy To

3 Advocate(s) / Consultant(s):

K.VAISH &CO
CHARTERED ACCOUNTANTS, 146, 4TH FLOOR,
TOWER A, THE CORENTHUM, SECTOR-62,NODIA,U.P.
201301

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 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032
15 C.D.R. 16 Office Copy 17 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I
ST/Stay/51326/2014
APPEAL No.ST/51140/2014-CU[DB]

(Arising out of Order-in-Appeal No. 75-ST/LKO/2013 dated 29/11/2013 passed by Commissioner of Central Excise & Customs (Appeals), Lucknow)

For approval and signature:

Hon'ble Mr. Anil Choudhary, Member (Judicial)
and
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

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. India Pesticides Ltd. **Appellant**

Vs.

Commissioner of Central Excise & S.T., Lucknow **Respondent**

Appearance:

Shri Kapil Vaish, C.A. for Appellant
Shri Pawan Kumar Singh, Supdt (AR), for Respondent

CORAM:

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

Date of Hearing : 01/09/2016
Date of Decision : 01/09/2016

FINAL ORDER NO. 70785/2016

Per: Anil Choudhary

The issue in this appeal filed by the appellant assessee is whether they are liable to Service Tax on renting of vacant land prior to 01/07/2010.

2. Heard the parties, the admitted facts are that vide a show cause notice dated 17/06/2011 without invoking the extended period demand was proposed for the Financial Year 2009-10, on account of rent received for renting of vacant land. Further, the admitted facts are that there is no structure temporary or permanent constructed on the vacant land.

3. The Learned Chartered Accountant for the appellant have urged that vacant land was taxable prior to 01/07/2010 only if the same formed part of land and building, that is house property, being land appertinent. It was only with effect from 01/07/2010 that vacant land given on lease for commercial or business purpose was brought under the tax net. Accordingly, he prays for allowing the appeal with consequential benefits.

4. Learned A.R. for Revenue has relied on the impugned order.

5. Having considered the rival contentions, we are satisfied that vacant land prior to 01/07/2010 was not liable to Service Tax under Section 65(105)(zzzz) of the Finance Act. Accordingly, we allow this appeal and set aside the impugned order. The appellant will be entitled

to consequential benefits, in accordance with law. The stay application also stands disposed of.

(Dictated in Court)

Sd/-
(ANIL G. SHAKKARWAR)
MEMBER (TECHNICAL)

Sd/-
(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

akp

प्रमाणित प्रति / Certified True Copy
4/10/16 /SPS
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