FAX : 0532-2400149

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

Dated: 04/11/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. ST/A/71032/2016-CU[DB] dated 29/09/2016

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/51875/2014	ST/51573/2014	URMI ELECTRICALS AND REFRIGERATION V-B-62,VIDYUT BIHAR COLONEY,SHAKTI NAGAR SONEBHADRA U.P
			Name and Address of Respondent
2			C.C. & C.E. & S.T.-ALLAHABAD 38...M G MARG...CIVIL LINES, ALLAHABAD, UTTAR PRADESH-211001

Copy To

3 Advocate(s) / Consultant(s): SH SITA RAM, CONST
3, TEJ BAHADUR SAPRU ROAD
CIVIL LINES, ALLAHABAD

4 Bar Association, CESTAT, Allahabad

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

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhisham 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

23-11-16

ISSUED ON

SIGN. (DESPATCH SECTION)
CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
38, M. G. MARG, ALLAHABAD-211001.

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, REGIONAL BENCH: ALLAHABAD

DIVISION BENCH

ST/Stay/51875/2014
Appeal No. ST/51573/2014

Dated of Hearing/decision: 29/09/2016

[Arising out of Order-in-Appeal No.104-ST-ALLD-2013 dated 06/11/2013 passed by Commissioner (Appeals), Central Excise & Service Tax, Allahabad (U.P.)]

For approval and signature:

Hon'ble Shri Anil Choudhary, Judicial Member
Hon'ble Shri 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

Urmi Electricals And Refrigeration — Appellant

Vs.

C.C. & C.E. & S.T. Allahabad — Respondent

Appearance:
Present for the Appellant: Shri Sita Ram, Consultant
Present for the Respondent: Shri Pawan Kumar Singh (Superintendent) A.R.

Coram: Hon'ble Shri Anil Choudhary, Member (Judicial)
Hon'ble Shri Anil G. Shakkarwar, Member (Technical)

Final Order No. 71032/2016

Per: Anil Choudhary

Heard the parties.

2. The Ld. Counsel for the appellant has urged that the Order-in-Original was passed ex-parte. Neither the show cause notice nor the Order-in-Original was served on the appellant nor any A.R. appeared at any time in the adjudicating proceedings.

3. In the Order-in-Original it is recorded that Shri Uma Shankar Pandey, supervisor of the appellant appeared on 25/6/2016. The appellant stated that Shri Uma Shankar Pandey, was neither their employee during the period nor authorised to appear in the adjudication proceeding. In support of this affidavit dated 02/9/2016, before the Notary Public, has been filed. We also perused the adjudication record submitted by ld. A.R. We find that there is no authorisation filed in favour of Shri Uma Shankar Pandey by the appellant. It is also found that the Order-in-Original was not served upon appellant. The appellant came to know when the service receiver stopped his payments for recovery of dues.

4. We allow the appeal by way of remand in the interest of justice. We set aside the Order-in-Appeal and Order-in-Original. We also return the record to ld. A.R. being C.No. V(3) Dem/ST/Mzp/62/07/1230 dated 25.4.2007 and F.No.

120/ST/Appl/All/2012 sent by DY Commissioner Review, Central Excise Allahabad, through the Superintendent, A.R. in this Tribunal. The copy of show cause notice is served by Ld. Superintendent A.R. upon Counsel of the appellant today. We direct the appellant/assessee to file a representation or reply within 45 days from the date of service of this order, or such extended period as may be granted by adjudicating authority and further co-operate in the adjudicating proceedings. Accordingly the appeal is allowed by way of remand and we direct the appellant to appear before the adjudicating authority within a period of 45 days from the date of receipt of a copy of this order and seek personal hearing. Stay petition is also disposed of.

(Dictated and pronounced in the open Court)

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

Sd/-
(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

(K. Gupta)

प्रमाणित प्रति / Certified True Copy

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