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

Dated: 16/5/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/ 70206/2016 SM dated 04/11/2015

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(I) of the **Central Excise and Salt Act, 1944.**

Asstt. Registrar

| Application | Appeal | Name and Address of Appellant |
|---|---|---|
| | ST/54433/2014 SM | PANGEA 3 LEGAL DATABASE SYSTEMS PVT LTD B-23, SECTOR-58 NOIDA, UP |

| | |
|---|---|
| Name and Address of Respondent | CCE, NOIDA C-56/42, SECTOR-62 NOIDA |

Other Appellants and Respondents as per Annexure

**Copy To**

3Advocate(s) / Consultant(s SH MOHIT SINGH,ADV
D-291, IIIRD FLOOR
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 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 C.D.R. 15 Office Copy 16 Guard File.
17.M.S KNOWLEDGE PROCESSING PVT LTD(TAMMANAGEMENTINDIDA.COM)

Asstt. Registrar
Regional Bench, Allahabad

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

**Single Member Bench**

**Appeal No. ST/54433/2014 (SM)**

[Arising out of Order-in-Appeal No. NOI/EXCUS/000/APPL/72/14 dated 27.03.2014 passed by Commissioner (Appeals) Customs, Central Excise, NOIDA, U.P.]

**For approval and signature:**

Hon'ble Shri Anil Choudhary, Judicial Member

| | | |
|---|---|---|
| 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 |

Pangea 3 Legal Database Systems Pvt. Ltd. Appellant

Vs.

C.C. & C.E. & S.T.-NOIDA Respondent

**Appearance:**
Present for the Appellant: Shri Mohit Singh, Advocate
Present for the Respondent: Shri H.M. Dixit (Asstt. Commissioner) (AR)

**Coram:** **Hon'ble Shri Anil Choudhary, Judicial Member**

**Date of Hearing/Decision: 04.11.2015**

Final **ORDER NO.** 70206/2016

**Per: Anil Choudhary**

The appellant is service provider – KPO, exporting most of their output services. They are in appeal against Order-In-Appeal dated the 27/3/14 by which credit of input service was denied among others, relating to the branch office at Mumbai, for the period April to June 2012.

2. That the appellant is having its head office at Noida which was started sometime in the year 2010. The appellant had obtained the registration under the provisions of service tax and was making compliances. In the year October 2011 they opened branch office(s) at Mumbai for similar output services. The accounting for the 2 branches at Mumbai was centralised at Noida office. Due to the nature of export of their services, the appellant was unable to utilise the Cenvat credit received on the various input services utilised in the rendering of the output services. For the quarter ended in June 2012 the appellant filed refund claim of the accumulated Cenvat credit on 25/3/13, claiming refund of Rs.38,51,823. The claim for refund was referred to the Range Superintendent who submitted report stating that the appellant have exported business auxiliary services valued at Rs. 236,76,261/- under Rule 3 (iii) of the Export of service rules and also provided domestic service to the tune of Rs. 34,11,134/- and the claim is filed within time. As some part of the input service claimed appeared to be not admissible, show cause notice dated 14/8/13 was issued as regards the admissibility of input service being services utilised at the unregistered premises and also some other services namely chartered accountant service, carpet cleaning service, home plant service, interior decorator service, et cetera. The appellant contested the show cause notice and the same was adjudicated vide Order-in-Original dated 25/11/13 by which a refund claim of Rs.31,14,712/- was sanctioned and refund claim for Rs.7,37,111/- was rejected.

3. Being aggrieved the appellant preferred appeal before the learned Commissioner Appeals who vide the impugned order dismissed the appeal and upheld the Order-in-Original, observing that as the Mumbai office was not registered, disallowance is correct.

4. Being aggrieved the appellant is in appeal before this Tribunal on the grounds among others that in view of the fact that the appellant had applied for registration – centralised, for all its offices, categorically mentioning that it is their NOIDA office which will be paying service tax under Centralised billing or Central accounting under sub rule 2 and 3A of Rule 4 of service tax rules. It is further pointed out that centralised registration, in response to their application dated 19/6/12, was granted on 4/9/12. The delay in granting centralised registration is wholly attributable to the revenue, as there was some problem in the software of Revenue. It is further pointed out that under the service tax Rules, an assessee is deemed to be registered on the 7th the date of filing application for registration, unless there is objection to the application. The rejection of input services received at the Mumbai office, treating the same as unregistered premises is bad in view of the certificate of centralised registration dated 4/9/12, which is a conclusive proof that the assessee was in legal procession of the premises for the offices at Mumbai. The ld. Counsel further states they have maintained centralised accounting, which have been accepted by the revenue vide the centralised registration certificate. In this view of the matter he prays that service tax paid on renting service for office premises is fully allowable. He further prays that the other services which were received are also fully allowable. As regards services received at guest house it is stated that the guest house is maintained wholly for the

business purpose and the same is allowable. The amount of Rs.812/- for carpeting cleaning service is fully allowable being expenses incurred in the premises from where the output services are rendered. Similarly home plant service and decoration service are also allowable services being incurred for maintaining overall ambience and improving the work atmosphere in the office, the amount of input tax of Rs.1302/- and Rs.777/- is fully allowable. So far the service tax of Rs.1482/- being paid for car parking at the office premises, the same is fully allowable being part of rental for office. Similarly service provided by Company ~~signatory~~ Secretary, input tax amounting to Rs.2102/- is fully allowable as services is required to be availed under statute and various company law compliances. Similarly meal vouchers ensure available of quality food for the staff and the same is essential as the appellant office, being the KPO, works at odd hours when food is normally not available locally. Similarly Travel insurance provided to staff is fully allowable being part of travelling cost for the business purposes.

5. The learnedly (A.R.) for the revenue relies on the impugned order.

6. Having considered the rival contentions I find that in view of the Registration granted – centralised, including the premises at Mumbai, it is conclusive proof that the appellant is in legal occupation of the said premises, have rendered output services from such premises and have maintained centralised accounting at the Noida Office. I also find that on opening of branch at Mumbai by appellant, an intimation by the director of STPI was given to revenue. I also find that output service have been rendered by Mumbai office, for which bill(s) have

been raised. Thus I hold that the appellant is entitled to Cenvat credit in respect of input services received at the premises other than the premises at Noida. Similarly I hold that the other input services same and except, input services received at guest house, and the amount of Rs.62/- for which no proper explanation was given, as mentioned by the ld. appellate Commissioner, I hold the appellant is entitled to Cenvat credit for the other amounts in dispute. Thus the appeal is allowed in part. The only amount on which Cenvat credit is held to be not available is Rs.758+ Rs.62 or Rs.820. The adjudicating authority is further directed to grant the balance amount of refund within a period of 60 days from the date of receipt of a copy of this order, along with interest, as per Rules.

(Dictated in the open court)

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

(K. Gupta)

प्रमाणित प्रति / Certified True Copy
9.6.16
सहायक रजिस्ट्रार / Asstt. Registrar