

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. A/70765/2016-SMIBR 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

ST/MISC/70030/2016
IN ST/57694/2013

NAME AND ADDRESS OF
RESPONDENT

CCE MEERUT I
EXCISE CHOWK, UNIVERSITY
ROAD, MANGAL PANDEY
NAGAR, MEERUT

Name and Address of Appellant

ABDUL HASSAN
VILLAGE TARIKAMPUR, PO
KAZIWALA, BIJNOR Up

Copy To

3 Advocate(s) / Consultant(s): SH RAJESH CHIBBER, ADV
FA-9 KAVI NAGAR
GHAZIABAD

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 AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD**

**Misc. Application No. ST/MISC/70030/2016
IN
Appeal No. ST/57694/2013-CU[DB]**

Arising out of Order-in-Appeal No.101-ST/MRT-I/2012 dated 26.10.2012
passed by Commissioner (Appeals) Customs & Central Excise, Meerut-I.

For approval and signature:

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

1. Whether Press Reporters may be allowed to see
the Order for publication as per Rule 27 of the
CESTAT (Procedure) Rules, 1982? : No
2. Whether it should be released under Rule 27 of the
CESTAT (Procedure) Rules, 1982 for publication
in any authoritative report or not? : Yes
3. Whether Hls Lordship wishes to see the fair copy
of the Order? : Seen
4. Whether Order is to be circulated to the Departmental
Authorities? : Yes

Abdul Hasan

...APPELLANT(S)

VERSUS

Commissioner of Central Excise & S. Tax, Meerut-I

...RESPONDENT (S)

APPEARANCE:

Shri Rajesh Chibber, Advocate for the Appellant (s)
Shri Pawan Kumar Singh, Supdt. (AR) for the Respondent (s)

CORAM:

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

DATE OF HEARING & PRONOUNCEMENT : 01.09.2016

FINAL ORDER NO. - 70765/2016



Per Mr. Anil Choudhary :

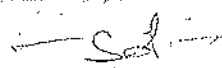
Heard. The appellant have preferred the present Misc. Application for modification of their earlier order in the matter of stay being Order No.ST/53679/2014 dated 21.10.2014, whereby the appellant were directed to make pre-deposit of Rs.68,055/- being the tax amount in dispute along with penalties imposed within a period of eight weeks. It is explained that appellant is situated ~~and~~ ^{and did not} in remote place ~~of the~~ ^{to} receive the order, it was only in June, 2015 when he was approached by the Revenue, he came to know that some stay order was passed. The appellant could not make the deposit due to financial hardship. Accordingly, the appellant have ~~prays~~ ^{ed} ~~which~~ for modification of the stay order by way of dispensing of pre-deposit. The learned counsel also points out that the issue involved i.e. handing of goods ~~on~~ ⁱⁿ sugar bags inside the factory premises is not 'Cargo handling service' as explained in the Ruling of Hon'ble Allahabad High Court in CEA No.64 of 2012, order dated 27th September, 2012. In the meantime, the appeal was dismissed for non-compliance of the pre-deposit order vide order dated 16.02.2015. Ar

2. The learned counsel, under the facts and circumstances, prays for recall of the dismissal order for default and prays for allowing the appeal for ~~explained~~ ^{explained} substantial justice to the appellant, who is a poor person. Ar
3. Accordingly, in the interest of justice, we recall the appeal to its original number and also modify the earlier stay order and Ar

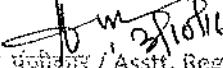
dispensed with the requirement of the pre-deposit. Further, in view of the Ruling of Hon'ble Allahabad High Court, we allow the appeal and set aside the impugned order. The appellant will be entitled for the consequential benefits, if any, in accordance with Law.

(Dictated & pronounced in the open Court)


(ANIL G. SHAKKARWAR)
MEMBER (TECHNICAL)


(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

प्रमाणित प्रति / Certified True Copy


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

/SPS