FAX : 0532-2400149

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

Dated: 07/12/2016

To
Appellant as per address in table below
Respondent as per address in table below

Final Order No. ST/A/71115/2016-CU[DB] dated 29/11/2016

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/CROSS/70318/2016	ST/70025/2015	COMMISSIONER OF CUSTOMS, CENTRAL EXCISE & SERVICE TAX-AGRA 113/4, SANJAY PLACE, AGRA AGRA,U.P. 282002
			Name and Address of Respondent
2			ANTZ MANAGEMENT CONSULTANCY PVT LTD 1/188 DELHI GATE,, AGRA,,U.P.

Copy To
Advocate(s) / Consultant(s):

3.Bar Association, CESTAT, Allahabad

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

5 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

6 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

7 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

8LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

9 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070
10 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38
11 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082
12 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032
13 C.D.R. 14 Office Copy ~~15~~ Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

CROSS Application No.ST/CROSS/70318/2016
AND
Appeal Nos.ST/70025/2015-CU[DB]

Arising out of Order-in-Appeal No.255-ST/APPL-AGRA/LKO/2015 dated 06.07.2015 passed by Commissioner (Appeals) Customs, Central Excise & Service Tax, Lucknow.

Commissioner of Central Excise & S.T., Agra

...APPELLANT(S)

VERSUS

M/s Antz Management Consultancy Pvt. Ltd.

...RESPONDENT (S)

APPEARANCE:

Shri Pawan Kumar Singh, Supdt. (AR) for the Department
For the Respondent Decided on merits

CORAM:

HON'BLE SHRI JUSTICE DR. SATISH CHANDRA, PRESIDENT
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

DATE OF HEARING:- 29.11.2016

DATE OF PRONOUNCEMENT: 02-12-2016

FINAL ORDER Nos.- 71115/2016

Per Mr. Anil G. Shakkarwar:

The Appeal is filed by the Revenue against Order-in-Appeal No.255-ST/APPL-AGRA/LKO/2015, dated 06.07.2015.

2. The brief facts of the case are that the appellant is providing Management or Business Consultant Service. It appeared to Revenue that reimbursable expenses (out of Pocket expenses) were includable in the assessable value. The respondent-assessee accordingly deposited Rs.11,414/- on 06.11.2012. On

the basis of pronouncement by Hon'ble High Court of Delhi, in the case of International Consultant and Technocrats Pvt. Ltd. Vs. Union of India reported at 2013(29) STR 9 (Del), the respondent-assessee sought refund of Service Tax to the tune of Rs.11,414/- paid on 06.11.2012. The Original Authority rejected the refund stating that Revenue has preferred Appeal, before Hon'ble Supreme Court against said ruling by Hon'ble High Court of Delhi. The respondent-assessee preferred appeal before Ld. Commissioner (Appeal). The Ld. Commissioner (Appeal) decided appeal through impugned Order-in-Appeal, wherein he has stated that Hon'ble Supreme Court had not stayed the operation of said ruling by Hon'ble High Court of Delhi and, therefore, as per ruling by Hon'ble High Court of Delhi reimbursable expenses cannot be included in the assessable value. As a result, Rs.11,414/- deposited on account of Service Tax arrived at by including reimbursable expenses in the assessable value should be refunded. He set aside the Order-in-Original and allowed the appeal with consequential relief. Aggrieved by the said Order-in-Appeal, Revenue has preferred this Appeal before this Tribunal.

3. The grounds raised by Revenue are that department had preferred an appeal before Hon'ble Supreme Court against the said ruling by Hon'ble High Court of Delhi. The respondent-assessee filed Cross objections, through their cross objections dated 20.02.2017. The respondent contended that Apex Court has not stayed the operation of the ruling by Hon'ble High Court

of Delhi and, therefore, the Appeal preferred by Revenue is not maintainable.

5. Heard the Ld. DR, who has reiterated the grounds of appeal.

6. The respondent-assessee submitted through letter dated 22.10.2016 stating that they have already filed memorandum of cross objection and they do not wish to add anything more.

7. Having considered the rival contentions, we find that Revenue could not produced any stay order passed by Hon'ble Apex Court staying operation of the ruling passed by Hon'ble High Court of Delhi in the said case of International Consultants and Technocrats Pvt. Ltd. Vs. Union of India reported at 2013(29) STR 9(Del.). We, therefore, do not find any merit in the appeal filed by Revenue. Appeal filed by Revenue is dismissed. The respondent-assessee shall be entitled for consequential relief, as per Law. Cross application also stands disposed of.

(Pronounced in the open Court on 12-3-2016)

— Sd — — Sd —

(Anil G. Shakkarwar) **(Justice Dr. Satish Chandra)**

Member (Technical) **President**

Mishra

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