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/70755/2016-SM[BR] 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/MISC/70410/2016	ST/70714/2016	**RAJA SETHI FINANCIAL SERVICES** 205,RATANDEEP COMPLEX,CHOWKI CHAURAHA,CIVIL LINES BAREILLY,UP
			Name and Address of Respondent
2			-CCE HAPUR OPPOSITE SHAHEED PARK, DELHI ROAD, MEERUT UP-

Copy To

3Advocate(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 AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

MISC Application No. : ST/MISC/70410/2016
Appeal No. : ST/70714/2016-ST[SM]

Arising out of OIA No.HPU/EXCUS/000/APPL-I/01/2016-17 dated 08.04.2016 passed by Commissioner (Appeals), Central Excise Appeals-I, Meerut.

For approval and signature:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

---

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 His Lordship wishes to see the fair copy of the Order? : Seen
4. Whether Order is to be circulated to the Departmental Authorities?
   : Yes

AC

Raja Sethi Financial Services, Bareilly ...APPELLANT

VERSUS

Commissioner, Central Excise, Hapur ...RESPONDENT

APPEARANCE

Shri Kapil Vaish, C.A. for the appellant
Shri Pawan Kumar Singh, (Supdt), (A.R.) for the Department

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

DATE OF HEARING & PRONOUNCEMENT : 01.09.2016
Final ORDER NO. 70755/2016

Per Mr. Anil Choudhary :

The issue in this appeal is whether the adjudication order is tenable for want of satisfactory service of the show cause notice.

2. Heard the parties.

3. Having considered the rival contentions and on perusal of the record, it have been strongly urged by the learned counsel for the appellant that neither the show cause notice was served nor the further notices of personal hearing nor the order in original dated 30/12/2008. The appellant came to know for the first time about the disputed demand in June, 2015 when they received reminder dated 01/06/2015 from the Revenue for collection of demand. The appellant had also taken this ground of non-service of show cause notice before learned Commissioner (Appeals), who had made inquiry into the matter by calling for report and it have come on record that the show cause notice was dispatched vide ~~a~~ dispatch Sl. No. 1141 dated 27/08/2008 through Yes Courier Service. As per Revenue the same appears to have been successfully delivered as no correspondence was received from Yes Courier Service regarding non-delivery, which was always received in case letter was not delivered for any reason whatsoever. Similarly, Order-in-Original dated 30/12/2008 was also dispatched through Yes Courier Service, which was returned undelivered. On perusal of the Order-in-Original, I find that the Adjudicating Authority have not recorded any satisfaction of service of the show cause notice before proceeding to pass an ex parte order.

4. Under the facts and circumstances, I hold that the show cause notices have not been validly served as required under the provisions of the Act read with the Rules thereunder. Accordingly, the impugned orders are not tenable and the same are set aside. The appellant will be entitled of consequential benefits, if any, in accordance with law. The misc. application for early hearing also stands disposed of.

(Pronounced in the open Court)

Sd/-
(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

Patel/-

प्रमाणित प्रति / Certified True Copy
3/10/16
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