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/71114/2016-CU[DB] dated 01/12/2016

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/71006/2016	T S MOTORS INDIA PVT LTD (DIRECTOR ROHIT ARORA), H.NO. 510/196-2, NEW HYDERABAD LUCKNOW,UTTA R PRADESH 226007
		Name and Address of Respondent
2		C.C.E. & S.T.-Lucknow 7-A...ASHOK MARG, LUCKNOW, UTTAR PRADESH-226001

Copy To

3 Advocate(s) / Consultant(s):

SIDHARTH DHAON ADVOCATE
4, GOKHLE MARG, LUCKNOW
(U.P.)

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 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

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. ST/71006/2016-CU[DB],
MISC Application Nos. ST/MISC/70494-70495/2016 &
COD Application No. ST/COD/70496/2016

(Arising out of Order-in-Original No. 47/COMMR./LKO./ST/2010 dated 31/12/2010 passed by Commissioner of Central Excise & Service Tax, Lucknow)

M/s T. S. Motors (India) Private Ltd. **Appellant**

Vs.

Commissioner of Central Excise & Service Tax, Lucknow

Respondent

Appearance:

Shri Sidharth Dhaon, Advocate for Appellant
Shri Rajeev Ranjan, Joint Commissioner (AR), for Respondent

CORAM:

Hon'ble Shri Justice Dr. Satish Chandra, President
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing & Date of Decision: 01/12/2016

FINAL ORDER NO. 71114/2016

Per: Justic (Dr.) Satish Chandra:

The delay is condoned on merit. The present appeal is filed by the appellant, M/s T. S. Motors (India) Private Ltd., against the Order-in-Original No. 47/COMMR./LKO./ST/2010 dated 31/12/2010 passed by Commissioner of Central Excise & Service Tax, Lucknow. The period of dispute is Financial Year 2004-05 to 2007-08.

2. The appellant, M/s T. S. Motors (India) Private Ltd., is a dealer of Maruti Suzuki India Ltd. and engaged in sales and services of Maruti cars. The Show Cause Notice No. V(30)Adj./Lko/173/2009 dated 24/10/2009 was issued to appellant and impugned ex party order was passed by the Commissioner on 31/12/2010. Being aggrieved, the assessee has filed the present appeal.

3. With this back ground, we heard Shri Sidharth Dhaon, Advocate, for the appellant; and Shri Rajeev Ranjan, Joint Commissioner, for the Department.

4. After hearing both the parties, it appears that ld. Commissioner has passed the Order-in-Original No. 47/COMMR./LKO./ST/2010 dated 31/12/2010 ex-parte and without providing any opportunity to the assessee. The ld. Counsel for the appellant repeatedly submits that, no opportunity was provided to the appellant before passing the impugned order.

5. In view of the above discussions and by considering the totality of the peculiar facts and circumstances of the case, we are of the view that natural justice has to be followed as per maxim, AUDI ALTERAM PARTEM. Hence, we set aside the impugned order and remand the matter to the Adjudicating Authority to pass fresh order but by providing reasonable opportunity to the assessee-appellant Additional evidence may be admitted as per law. The learned counsel for the

appellant has assured full cooperation to the Adjudicating Authority.

6. In the result, the appeal filed by the appellant is allowed by way of remand. All the Miscellaneous & COD Applications also stand disposed of.

(Dictated and pronounced in Court)

Sd/-
(Anil G. Shakkarwar)
Member (Technical)

Sd/-
(Justice Dr. Satish Chandra)
President

Ansari

प्रमाणित प्रति / Certified True Copy
8.12
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001