FAX : 0532-2400149 REGISTERED / AD

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

Dated: 16/05/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70474/2017-SM[BR] dated **12/05/2017**

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the **Central Excise and Salt Act, 1944.**

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/51895/2015	**Anil Kumar Goel** C-2025, Indra Nagar LUCKNOW UP 226016
		Name and Address of Respondent
2		C.C.E. & S.T.-Meerut-ii OPPOSITE SHAHEED SMARAK,DELHI ROAD...BHANSALI GROUND, MEERUT, UTTAR PRADESH-

Copy To

3Advocate(s) / Consultant(s):

G.S.BISHT,ADVOCATE
BHAGWATI BHAWAN, D-2267,
INDIRA NAGAR,
LUCKNOW,
UP
226016

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. E/51895/2015-EX[SM]

(Arising out of Order-in-Appeal No. HPU/EXCUS/000/APPEALS-I/132/2014-15 dated 13/02/2015 passed by Commissioner of Central Excise & Customs (Appeals), Meerut)

M/s Anil Kumar Goel, Manager & Attorney of Rapti Commission Agency **Appellant**

Vs.

Commissioner of Central Excise, Meerut-II **Respondent**

Appearance:

Shri G.S. Bisht, Advocate, for Appellant
Shri Pawan Kumar Singh, Superintendent (AR), for Respondent

CORAM:

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing & Date of Decision : 23/12/2016

FINAL ORDER NO...70474/2017........

Per: Anil G. Shakkarwar

The present appeal is filed by the appellant, M/s Anil Kumar Goel, Manager & Attorney of Rapti Commission Agency, against Order-in-Appeal No. HPU/EXCUS/000/APPEALS-I/132/2014-15 dated 13/02/2015 passed by Commissioner of Central Excise & Customs (Appeals}, Meerut.

2. Heard the ld. Counsel, G.S. Bisht, for the appellant he has brought to my notice that the hearing before ld. Commissioner (Appeals) took place on 30/12/2014. As stated in para 4 of the impugned Order-in-Appeal, ld. Commissioner

(Appeals) called for clarification from the adjudication branch of Meerut-II Commissionerate, now Hapur. In terms of Sub-section 3 of Section 35A of Central Excise Act, 1944, the clarification in the form of letter dated 06/02/2015, was received by ld. Commissioner (Appeals). The ld. Counsel has contended that on the basis of said report dated 06/02/2015, ld. Commissioner (Appeals) decided the appeal and rejected the appeal. The ld. Commissioner (Appeals) did not give copy of the said communication dated 06/02/2015 to the appellant and did not give them opportunity to present their case as such additional evidence was collected by ld. Commissioner (Appeals), at the back of appellant.

3. Heard the ld. D.R., Shri Pawan Kumar Singh, for Revenue who has supported the impugned Order-in-Appeal.

4. I understand from Para 4 of the impugned Order-in-Appeal that the ld. Commissioner (Appeals) has collected additional evidence in the form of said letter dated 06/02/2015 and discussed the same in impugned Order-in-Appeal, as to how the concerned Order-in-Original was served on the appellant. I find that the appellant was not given opportunity to present their case on the facts that came to the knowledge of ld. Commissioner (Appeals), after the hearing which was concluded on 30/12/2014. Therefore, the appellant was not provided opportunity to present their case on the additional evidence collected by ld. Commissioner (Appeals), for arriving at decision thereby rejecting the appeal

before him. I, therefore set aside the impugned order and remand the matter back to the ld. Commissioner (Appeals), with a direction that the additional evidence collected in the form of communication dated 06/02/2015, filed by Revenue along with any speed post receipt/dispatch, etc., which was received by ld. Commissioner (Appeals) along with the said communication dated 06/02/2015 and any other additional evidence on the basis of which the impugned order was passed, may be made available to the appellant and the appellant may be offered opportunity to present their case on the same and then re-adjudicate the matter.

5. Thus, the impugned Order-in-Appeal is set aside and the matter is remanded in terms of direction as stated above and the appeal is allowed by way of remand.

(Dictated and pronounced in Court)

-Sd/-
(ANIL G. SHAKKARWAR)
Member(TECHNICAL)

Ansari

प्रमाणित प्रति/Certified True Copy
23/05/2017
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