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: 29/03/2017

To

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

Final Order No. A/70311/2017-SM[BR] dated 16/03/2017

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/346/2011	METAL SEAM CO. (P) LTD., B-6, INDUSTRIAL AREA, TALKATORA LUCKNOW (U.P.)
		Name and Address of Respondent
2		-C.C.E. LUCKNOW 7-A, Ashok Marg, Lucknow.

Copy To
3Advocate(s) / Consultant(s):

KAPIL VAISH
2nd Floor, Part-a Krishna
Janki Palace, 35-c, Rampur
Garden, Civil Lines, Bareilly,
Up
BAREILLY

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. 1

APPEAL No.: ST/346/2011-ST[SM]

(Arising out of Order-in-Appeal No. 441-ST/LKO/2010 dated 03/12/2010 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Lucknow)

M/s Metal Seam Co. (P) Ltd. Appellant

Vs.

Commissioner of Central Excise, Lucknow Respondent

Appearance:

Shri Kapil Vaish for Appellant
Shri D. K. Deb, Assistant Commissioner (AR), for Respondent

CORAM:

Hon'ble Mr. Anil Choudhary, Member (Judicial)

Date of Hearing & Date of Decision : 16/03/2017

FINAL ORDER NO:-70311/2017............

Per: Anil Choudhary

Heard the parties.

2. On going through the records I find from a plain reading of the show-cause-notice dated 1 April, 2009 which states that during the course of scrutiny of the ST-3 and other records and documents of the Party, the Balance Sheet for the year 2006-07, was inter alia examined wherein under the heading wages a Sub-heading 'carriage and freight inward' was found mentioned. Under this Sub-heading, expenses amounting to Rs. 31,43,569/- were shown to have been incurred during the said period. Upon enquiry it was found

that on the said freight inward, the appellant had not discharged any service tax. There were similar freight inward paid for the period 2004-05 to 2006-07, and the total service tax amounting in Rs. 12,27,973/- have not been paid. It further, appeared that the appellant on the outward transport or freight charges availed themselves of the benefit of the notification No. 32/2004-ST and notification 01/2006 while paying service tax in respect of outward freight charges, thereby claiming an abatement of 75% of the value of taxable services and consequently paying service tax only on the remaining 25% of the value of such taxable services. It appeared to revenue that such abatement was available only to the service provider and not to the service recipient, as the appellant. Accordingly demand for extended period was raised vide the show-cause-notice.

3. Having considered rival submission and on perusal of records, I find that no case of any suppression of facts, misstatement of facts, fraud or contumacious conduct is made out on the part of the appellant. Accordingly, I find that the show-cause-notice for the extended period is untenable. Accordingly, the impugned order is set aside. The appellant is entitled to consequential benefits in accordance with law.

(Dictated in Open Court)

-Sd/-

(ANIL CHOUDHARY)

Member(JUDICIAL)

pandey

प्रमाणित प्रति / Certified True Copy

23/04/2017

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