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: 28/11/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71643/2017-SM[BR] dated 16/11/2017

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/1013/2011	**SUPER TRANSPORTS (P) LIMITED** Plot No 264, Bhindeukhera Mode, Kashipur Road, Danapur Rudrapur, Uttrakhand.
		Name and Address of Respondent
2		-C.C.E. MEERUT I Excise Chowk,Opposite Choudhary Charan Singh University Mangal Panday Nagar, Meerut - 250005.

Copy To

3Advocate(s) / Consultant(s):

V. Lakshmi Kumaran, ALD
3/1A/3 OPP AUTO SALES,Above the Office Of Blue Dart/DHL Courier, COLVIN ROAD, LOHIA MARG ALLAHABAD-211001

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, Opp ICICI Bank of Defence Colony 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 Second Folder Copy 17 Guard File

Asstt. Registrar

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

APPEAL No. ST/1013/2011-ST[SM]

(Arising out of Order-in-Appeal No. 25-ST/MRT-II/2010 dated 31/01/2011 passed by Commissioner (Appeals), Customs & Central Excise, Meerut-II)

M/s Super Transports (P) Ltd.
(Formerly as L. G. Tyres) **Appellant**
Vs.

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

Appearance:

Shri Atul Gupta (Advocate) for Appellant
Shri Gyanendra Kumar Tripathi (Asstt. Commr.) AR for Respondent

CORAM:

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

Date of Hearing : 16/11/2017
Date of Decision : 16/11/2017

FINAL ORDER NO. 71643/2017

Per: Anil Choudhary

The issue in this appeal is whether the show cause notice have been validly issued or is hit by the provisions of Section 73(2) read with proviso of the Finance Act, 1994.

2. The brief facts are, as per the SCN dated 19th October, 2009, that the appellant is a newly formed enterprise, began their operation in June, 2008 and was engaged in the activity of retreading of old tyres, which comes in the category of Maintenance and Repair Services. The appellant is also registered under GTA. The appellant availed Cenvat credit on

inputs and capital goods received by them. Being new in the activity, they obtained registration under Service Tax, after some delay on 28th August, 2008, in response to the application dated 22/08/2008. The appellants filed ST-3 Return for the half-year, ended October, 2008, wherein against tax payable Rs.1,79,370/-, they claimed the same to be adjustable vide Cenvat credit. It was observed by Revenue that column 5-B of ST-3 Return meant for Cenvat credit taken and utilized, the appellant have stated is not applicable and also no credit of Cenvat had been shown and also no GAR-7 Challan, vide which Service Tax have been paid for the said half-year was enclosed with the ST-3 Return.

3. On being objected by Revenue vide letters dated 29/12/2008, demanding deposit of service tax and also further letter dated 27/02/2009, The appellant accepted the objection of the Revenue and deposited the service tax in question, vide GAR-7 Challan during the period February, 2009 to 16/04/2009. This fact is also acknowledged in Para-2(III) of the show cause notice. It is further recorded in Para-2(IV) of SCN that the appellant have voluntarily paid the service tax amount and they will submit a revised ST-3 Return shortly. The Learned Counsel have also drawn my attention to their letter dated 20th April, 2009 wherein they have submitted the revised ST-3 Return and also filed the copy of the 4 Challans aggregating to the amount in dispute.

4. Heard the parties.

5. Having considered the rival contentions, in view of the admitted fact, the appellant on being so pointed out by Revenue have deposited the tax in dispute under intimation to Revenue, subsequent issue of show cause notice is untenable and hit by the provisions of Section 73(2) read with proviso to the Finance Act, 1994. Accordingly, this appeal is allowed and the impugned order is set aside. The appellant shall be entitled to consequential benefits, in accordance with law.

(Dictated & Pronounced in Court)

-Sd/-

(ANIL CHOUDHARY)

Member(JUDICIAL)

Lks

प्रमाणित प्रति/Certified True Copy

15/12/12

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