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: 15/11/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71367/2017-SM[BR] dated 13/11/2017

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/1348/2011	**Commissioner of CUSTOMS-Kanpur** 117/7...SARVODYA NAGAR, KANPUR, UTTAR PRADESH 208005
		Name and Address of Respondent
2		Ms Lohia Starlinger Ltd D-3/a, Panki Industrial Area,, KANPUR ,UP

Copy To

3 Bar Association, CESTAT, Allahabad

4 Director Publications, Customs, Excise. I.P. Estate, Delhi

5 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3

6 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

7 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

8 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

9 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

10 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad -- 38

11 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

12 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

13 C.D.R. 14 Office Copy 15 Second Folder Copy ~~16~~ Guard File

Asstt. Registrar

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

APPEAL No. ST/1348/2011-ST[SM]

(Arising out of Order-in-Appeal No. 130-131-ST/APPL/KNP/2011 dated 24/06/2011 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Kanpur)

Commissioner of Central Excise & Service Tax, Kanpur — **Appellant**

Vs.

M/s Lohia Starlinger Ltd. — **Respondent**

Appearance:

Shri Mohd. Altaf, Assistant Commissioner (AR), — for Appellant
Request for Adjournment, — for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)

Date of Hearing & Date of Decision : 13/11/2017

FINAL ORDER NO...71367/2017........

Per: Archana Wadhwa

The short issue involved in the present appeal of the Revenue is, as to whether the service recipient in India, from a foreign based service provider is required to pay Service Tax, on reverse charge basis, for the period prior to 18/04/2006, when the provisions of Section 66A was enacted for the first time.

2. While granting relief, Commissioner (Appeals) has relied upon the Hon'ble Bombay High decision in the case of Indian National Shipowners Association, which stands confirmed by the Hon'ble Supreme Court. He has also referred to the Board's Circulars laying down to the effect, all the decisions of the Tribunal, which stands passed by following the Hon'ble

Bombay High Court decision, stands accepted by the Revenue.

3. It is seen that the issue stands settled right upto the Hon'ble Supreme Court as also stand accepted by the Revenue itself, as is clear from the Board's Circulars issued on the same. It is not understood as to why such type of mechanical filing of appeal was done by the Concerned Officers, which unnecessarily leads to multiplication of litigations. The grounds of appeal, nowhere, touch the Board's Circulars and fact of conformation of Hon'ble Bombay High Court decision by the Hon'ble Supreme Court and the applicability of the same. There is no reason, given in the said appeal, as to why the Hon'ble Supreme Court's decision, which is declaration of law of the land and is required to be followed in terms of Article 141 of the Constitution should not be adhered to. Such frivolous appeals filed by the Revenue not only waste the time and energy of the Officer drafting the appeal but also contributes to the wastage of the Court's time, leading to nil results.

4. Having expressed my anger as above, I reject the appeal filed by the Revenue.

(Dictated & Pronounced in Court)

Sd/-
(Archana Wadhawa)
Member(Judicial)

Ansari

प्रमाणित प्रति/Certified True Copy
04/12/12
सहायक पंजीकार/Asstt. Registrar
सीमा शुल्क, उत्पादशुल्क एवं सेवा कर अपील अधिकरण(C.E.S.T.A.T.)
38, एम.जी.मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001