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: 15/09/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71013/2017-SM[BR] dated 08/09/2017

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/1550/2011	**A.B.R.PETRO PRODUCTS LTD** AL-1, Sector-15, GIDA Sahjanwa, Gorakhpur(UP)
		Name and Address of Respondent
2		-C.C.E Allahabad 38,M.G.Marg, civil Lines, Allahabad

Copy To

3Advocate(s) / Consultant(s):

**BIPIN GARG & CO.
ADVOCATES(ALLD)
102, MAHALAXMI ENCLAVE
(ADJ. INCOME TAX OFFICE),
STANLEY ROAD, CIVIL LINES,
ALLAHABAD (U.P.)-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, 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
Old Red Building, 38 M.G. Marg, Civil Lines, Allahabad – 211 001

COURT NO. II

DATE OF HEARING : 08/09/2017.
DATE OF DECISION : 08/09/2017.

Service Tax Appeal No. 1550 of 2011 (SM)

[Arising out of the Order-in-Appeal No. 96/ST/ALLD/2011 dated 26/07/2011 passed by The Commissioner (Appeals), Customs & Central Excise, Allahabad.]

M/s A.B.R. Petro Products Ltd. Appellant

Versus

CCE, Allahabad Respondent

Appearance

Ms. Stuti Saggi, Advocate – for the Appellant.

Shri Mohd. Atlaf, Authorized Representative (DR) – for the Respondent.

CORAM: **Hon'ble Shri Ashok Jindal, Member (Judicial)**

Final Order No.71013/2017 Dated : 08/09/2017

Per. Ashok Jindal :-

The appellant is in appeal against the impugned order praying for waiver of penalty by invoking Section 80 of the Finance Act, 1994.

2. The brief facts of the case are that the appellant is engaged in bottling of LPG cylinders on behalf of IOCL. The said activity of the appellants falls under Business Auxiliary Service and the

appellant was not paying service tax thereon, therefore, the proceedings were initiated against the appellant and it was pointed out to the appellant that they were required to pay service tax on the services under Business Auxiliary Service. On pointing out by the Department, the appellant paid part of the service tax with the Department before issuance of show cause notice part of the service tax was paid before adjudication and part of the service tax was paid after adjudication. In that circumstances, the appellant sought benefit of Section 80 of the Finance Act on the ground that they were under bonafide belief that they are not required to pay service tax and did not pay service tax in time.

3. Heard the learned Counsel for the appellant.

4. Considering the fact that after pointed out to the appellant that they were required to pay service tax on the services under Business Auxiliary Service the appellant did not pay the whole of the service tax alongwith interest. If that would have been done by the appellant, in that circumstances, the bonafide of the appellant could have been considered but as appellant did not opt to pay service tax immediately on pointing out by the Department and have not disputed the levy of service tax thereon. In that circumstances, benefit of Section 80 of the Finance Act, 1994 is not available to the appellant.

5. Accordingly, I do not find any merit in the appeal. Therefore, the same is dismissed by upholding the impugned order.

(Dictated and pronounced in open court.)

Sd/-

(Ashok Jindal)

PK

Member(Judicial)

प्रमाणित प्रति/Certified True Copy
27/09/17
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