FAX : 0532-2400149

REGISTERED / AD

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

To

Dated: 30/11/2017

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

Final Order No. ST/A/71745/2017-CU[DB] dated 28/08/2017

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/3575/2012	**Alhuwalia Contracts I Ltd** 1-okhla Industrial Estate, Phase-iii NEW DELHI 110020
		Name and Address of Respondent
2		C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307

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

S. K. Sarwal & Co.
43, IST FLOOR, BHARAT NAGAR,
NEW FRIENDS COLONY,
NEW DELHI,
DELHI
110065

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. 1

APPEAL No.ST/3575/2012-CU[DB]

(Arising out of Order-in-Original No. 17/COMMISSIONER/NOIDA/2012-13 dated 03/08/2012 passed by Commissioner of Central Excise & Customs, Noida)

M/s Alhuwalia Contracts India Ltd. — **Appellant**

Vs.

Commissioner of Service Tax, Noida — **Respondent**

Appearance:

Shri S.K. Sarwal, Advocate — for Appellant
Shri Rajeev Ranjan, Joint Commissioner (AR), — for Respondent

CORAM:

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

Date of Hearing : 28/08/2017
Date of Decision : 28/08/2017

FINAL ORDER NO. 71795/2017........

Per: Anil Choudhary

The present appeal is filed by appellant against Order-in-Original No. 17/COMMISSIONER/NOIDA/2012-13 dated 03/08/2012 passed by Commissioner of Central Excise & Customs, Noida.

2. The issue in this appeal, as evident from the show cause notice dated 01/06/2011 is that prior to 01/06/2007 the appellant was paying service tax under the classification of 'Commercial and Industrial

Construction Service', 'Erection Commissioning and Installation Service', etc. with effect from 01/06/2007 on introduction of the provisions for 'Works Contract' in the Finance Act, 1994, the appellant classified their service under 'Works Contract' with effect from 01/06/2007 and accordingly, claimed the calculation of taxable service, including abatement for material component. The same was objected to by the Revenue, as it was believed by Revenue that the appellant cannot change the classification with effect from 1st June, 2007, of the ongoing 'Works Contract' or 'Construction Contracts' which admittedly are Composite Contract. The Order-in-Original was passed on 03/08/2012 by the learned Commissioner. We find that the law was not settled at the relevant time and the same came to be settled finally by Hon'ble Supreme Court in its judgment in the case of M/s Larsen and Toubro Ltd. reported at 2015 (39) STR 913 (SC).

3. Accordingly, we allow this appeal by way of remand to the learned Commissioner with directions to re-adjudicate the show cause notice, in the light of the findings and law laid down by the Hon'ble Supreme Court in the ruling of M/s Larsen and Toubro (supra). The appellant is also directed to appear, with their

representation or the reply to show cause notice and other evidences, as they want to rely, before the concerned Commissioner within a period of 60 days from the receipt of a copy of this order and seek an opportunity of hearing.

4. Thus, the appeal filed by the appellant is allowed by way of remand to the learned Commissioner.

(Dictated in Court)

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

-Sd/-
(ANIL CHOUDHARY)
Member(JUDICIAL)

akp

प्रमाणित प्रति/Certified True Copy,
02/01/18
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