

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

Dated: 30/11/2017

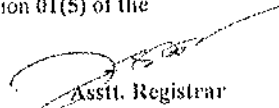
To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. ST/A/71777/2017-CU[DB] dated 28/11/2017

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.

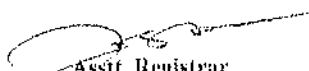

 Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	ST/293/2011	CCE, MEERUT-II Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)
		Name and Address of Respondent
2		RASTOGI BROTHER, VILLAGE-GALAND, JINDAL NAGAR, GHAZIABAD, DISTT. GHAZIABAD (U.P.),,

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), Vaidhyaram Street, T. Nagar, Chennai-17
- 7 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohak Road, New Delhi-110005
- 8 LAWCRUX Advisors Pvt. Ltd., LAW House, I-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 Karkardoma 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/293/2011-CU[DB]

(Arising out of Order-in-Appeal No. 365-ST/MRT-II/2010 dated 29/10/2010 passed by Commissioner of Central Excise & Customs (Appeals), Meerut-II)

Commissioner of Customs & Central Excise, Meerut-II Appellant
Vs.

M/s Rastogi Brother

Respondent

Appearance:

Shri Mohd. Altaf, Assistant Commissioner (AR),

for Appellant
for Respondent

Absent,

CORAM:

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

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

Date of Hearing & Date of Decision : 28/11/2017

FINAL ORDER NO. 71777 / 2017

Per: Archana Wadhwa

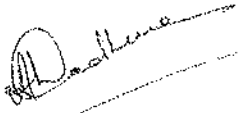
Being aggrieved with the order passed by the

Commissioner (Appeals) Revenue has filed the present appeal.

We have heard the Id. A. R., Shri Mohd. Altaf, Assistant Commissioner, for Revenue and nobody appeared on behalf of the respondent.

2. The short issue involved in the present appeal is, as to whether the Transport, Warehousing, Handling, Loading/Unloading & Freight Charges, etc. are includable in the taxable value of clearing and forwarding agent services, being provided by the respondent. The Appellate Authority has relied upon the precedent orders of the Tribunal as herinunder:-

- (a) Sangamitra Services Agency 2007 (1) S.T.R. 278 (Tri. - Chennai),
- (b) K. D. Sales Corporation 2007 (6) S.T.R. 418 (Tri. - Bangalore),



- (c) Sri Sashta Agencies Pvt. Ltd. 2007 (6) S.T.R. 185 (Tri. - Bangalore) &
- (d) S. Jayashree 2007 (6) 2007 (6) S.T.R. 389 (Tri. - Bangalore).

In addition, he has also observed as under:-

"The Department had accepted the other two Orders-in-Original for the periods October, 1999 to March, 2000 & July, 2004 to September, 2004 wherein demands were dropped by the Adjudicating Authority pertaining to the respondent's own case on the same issue. The Department has not submitted the any new reason for opening the same issue for the intermediate period i.e. April, 2000 to June, 2004."

3. Revenue in their memo of appeal have nowhere contended that the earlier orders passed in the same assessee's case were not accepted by them and were appealed against. As such, we find no infirmity in the impugned order of Commissioner (Appeals) vide which he has followed the Tribunal's orders as also the earlier orders in the same respondent case. Accordingly, Revenue's appeal is rejected.

(Dictated & Pronounced in Court)

Sd/-
Anil.G. Shakkarwar
Member(Technical)

Sd/-
(Archana Wadhawa)
Member (Judicial)

Ansari

Stamp: Certified True Copy
Stamp: 09/10/2018
Stamp: Registrar
Stamp: S.T.A.T.
Stamp: 211001
Stamp: B.G. MARC, ALLAHABAD-211001

