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: 18/07/2017

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

Final Order No. ST/A/70642-70644/2017-CU[DB] dated 11/07/2017

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/601/2011	**Innodata India Pvt Ltd** A-14/15, Sector-16, Noida (u.p.)
2	ST/602/2011	**Innodata India Pvt Ltd** A-14/15, Sector-16, Noida (u.p.)
3	ST/945/2011	**Innodata India Pvt Ltd** A-14/15, Sector 16, Noida

	Name and Address of Respondent
4	C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307
5	C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307
6	C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307

Other Appellants and Respondents as per Annexure
Copy To
7Advocate(s) / Consultant(s):

Ms Lalitha Krishnamurthy &
Gavrav Arya.(C.A.)
708, SURYA KIRAN
BUILDING, 19, KASTURBA
GANDHI MARG, NEW
DELHI-110001

8 Bar Association, CESTAT, Allahabad

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

10 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

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

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

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

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

15 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

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

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

18 C.D.R. 19 Office Copy **20 Guard File**

Asstt. Registrar

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

APPEAL Nos.ST/601, 602 & 945/2011-CU[DB]

(Arising out of Order-in-Appeal Nos. 151-152 & 153/ST/APPL/NOIDA/2010 dated 14 & 17/05/2010 passed by Commissioner of Central Excise & Customs (Appeals), Noida)

M/s Innodata India Pvt. Ltd. Appellants

Vs.

Commissioner of Central Excise, Noida Respondent

Appearance:

Ms Lalitha Krishnamurthy, C.A. &
Shri Gavrav Arya, C.A. for Appellants
Shri Mohamad Altaf, Assistant Commissioner (AR). for Respondent

CORAM:

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

Date of Hearing : 11/07/2017
Date of Decision : 11/07/2017

FINAL ORDER NOs 70642-70644/2017

Per: Anil Choudhary

The present appeal is filed by the appellants-assessee against common Order-in-Appeal Nos. 151-152 & 153/ST/APPL/NOIDA/2010 dated 14 & 17/05/2010 passed by Commissioner of Central Excise & Customs (Appeals), Noida.

2. The issue in this appeal is regarding disallowance in part of the claim under Notification No.12/2005-ST being rebate claimed for Service Tax paid on input services utilized in the activity of export of services.

3. The brief facts of the case are that the appellant is a STPI unit engaged in rending services under the category of 'Online Information and Database Access or Retrieval services' as defined under Section 65 (105) (zg) of the Finance Act, 1994 in the nature data conversion and data capturing services. The appellant exports 100% of their services and also receives several input services on which they pay service tax and/or utilized in the course of their activity of providing export of service. The appellant filed periodical claims for refund/rebate as follows:-

Sl. No.	Appeal Nos.	Order-in-Appeal	Period involved	Amount of Refund rejected (Rs.)
1.	ST/601/2011	151-152 /ST/APPL/NOIDA/2010 dated 14/05/2010	April 08 to June 08	4,89,840/-
2.	ST/602/2011	153/ST/APPL/NOIDA/2010 dated 17/05/2010	January'08 to March'08	4,77,453/-
3	ST/945/2011	151-152 /ST/APPL/NOIDA/2010 dated 14/05/2010	July 08 to September 08	3,46,510/-
			Total	13,13,803/-

4. The reason for the disallowance of the above refunds/rebate is that during the period when services were received some of the premises of the appellant company were not registered with the Service Tax Department. The learned Counsel have taken us through the sample invoices which show services are in respect of security guard, rent, etc. and have also demonstrated that these additional premises were taken on rent due to increase in business and these premises were subsequently applied for and accordingly included in

the centralized Regn certificate dated 29th of March 2011. Accordingly, she prays that the Cenvat credit should be held allowable. She also stated that these additional offices have supported the activity of the company and they have raised all the bills for the services exported from their registered office, which is not disputed and have received foreign convertible exchange for the same. The learned Counsel have further placed reliance on the ruling of Hon'ble Karnataka High Court in the case of mPortal India Wireless Solutions Pvt Ltd versus CST reported at 2012 (27) STR 134 and in the case of Atrenta India Pvt. Ltd. (All.-H.C.) reported at 80taxman.com382, wherein it have been held that registration is not a precondition for refund of input service, utilized for export.

5. The learned AR has relied on the impugned order on this issue.

6. Considering the facts and circumstances and taking notice of the fact that the issue is covered by the precedent ruling of this Tribunal in appellants own case for the quarters April to June, 2007, July to September, 2007 and October ~~the~~ to December, 2007 vide Final Order No.ST/A/70387-70389/2017 dated 06th April, 2017 and relevant finding in the said Order is at para-08 and the same is reproduced as follows:-

"8. Considering the facts and circumstances and taking notice of the fact that all such unlisted premises had subsequently been registered and recognized for the appellant, and also relying on the ruling of Hon'ble Karnataka High Court in the case of mPortal India Private Ltd (supra), I allow this ground also, in favour of the appellant."

7. To sum up, the above ground is decided in favour of the appellant and accordingly, the impugned orders are set-aside so far they have disallowed the rebate or refund of input services utilised by the appellant in the course of their rendering of services exported. Accordingly, we hold that the appellant will be entitled to refund of the balance amount not granted by the court below. We further direct the adjudicating authority to grant the refund within a period of 45 days from the date of receipt of a copy of this order, along with interest as per rules.

8. Thus, the appeals are allowed.

(Dictated in Court)

-Sd/-	**-Sd/-**
(ANIL G. SHAKKARWAR)	**(ANIL CHOUDHARY)**
Member (TECHNICAL)	**Member(JUDICIAL)**

प्रमाणित प्रति/Certified True Copy

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