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: 28/12/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. ST/A/71985/2017-CU[DB] dated 31/08/2017

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/675/2011	**Commissioner of CUSTOMS-Kanpur** 117/7...SARVODYA NAGAR, KANPUR, UTTAR PRADESH 208005
		Name and Address of Respondent
2		The Sinex, 117/h-i/381, Modal Town, Pandu Nagar, Kanpur (U.P)

Copy To

3Advocate(s) / Consultant(s):

AMIT AWASTHI ADVOCATE
7/116A, H-1, IST FLOOR,
RADHEY APARTMENT,
SWAROOP NAGAR, KANPUR-208002

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. I

APPEAL No.ST/675/2011-CU[DB]

(Arising out of Order-in-Appeal No. 72-ST/APPL/KNP/2011 dated 22/03/2011 passed by Commissioner of Central Excise & Customs (Appeals), Kanpur)

Commissioner of Central Excise, Kanpur **Appellant**

Vs.

The Sinex, **Respondent**

Appearance:

Shri Rajeev Ranjan, Joint Commissioner (AR) for Appellant
Shri Amit Awasthi, Advocate for Respondent

CORAM:

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

Date of Hearing : 31/08/2017
Date of Decision : 31/08/2017

FINAL ORDER NO. 71385/2017

Per: Anil Choudhary

The present appeal is filed by Revenue against Order-in-Appeal No. 72-ST/APPL/KNP/2011 dated 22/03/2011 passed by Commissioner of Central Excise & Customs (Appeals), Kanpur.

2. The brief facts of the case are that the departmental officers on the basis of intelligence gathered that the respondents were engaged in providing services of making, preparation, installation, display and exhibition

of advertisement materials, to their clients without obtaining Service Tax registration certificate and were indulged in huge Service Tax evasion therefore, the officers visited the premises of respondent on 16/01/2009. Shri Madan Lal, the proprietor of the firm, who was present on spot explained in his written statement that he was engaged in Fabrication, erection and installation of signage, cantilever signage overhead signage etc. according to work order. He further stated that his firm is engaged mainly with the UPSIDC, CPWD and other organization and companies on work order. He further added that these sign boards and other advertisement materials are being carried and installed at specific places for display as per instructions of the customer; that after procuring the installation certificate from the site owners and providing the same to the customer, the payments are received from the customers as per the order placed for the purpose and that they were not registered with the department and were not charging and paying any Service Tax. On being asked by the officers, Shri Madan Lal also provided the copies of desired records and further details as required by the departmental officers and also tendered his statement. During investigation it was found that respondent was mainly engaged in providing its services to M/s PSIT & M/s PSAT, Kanpur and UPSIDC. Since the main service receiver of the respondent is M/s PSIT & M/s PSAT therefore, the statement of Shri Amit Kumar, authorized person of M/s PSIT & PSAT was recorded. In his statement Shri Amit Kumar inter-alia stated that the work order is issued to the appellant which is inclusive of raw material and he further added that their firm i.e. M/s PSIT & PSAT only place the work order and give them the CD containing design. The officers on the basis of said enquiry and the facts in their knowledge, determined that the appellant is engaged in providing services to their clients in relation to "advertising agency" by making and preparing advertisement material such as signage, cantilever signage etc. and displaying and exhibiting the same by installing at the places or sites as directed by their clients, thus were taxable services as defined in sub-clause (e) of Clause (105) of Section 65 of the Finance Act, 1994. On the basis of inquiry show cause notice dated 27.10.2010 was issued, demanding the service tax amounting to Rs.47,16,944/- on the said work. The SCN was adjudicated by the original authority vide Order-in-Original dated 01.02.2011 wherein the original authority had confirmed the demand and imposed the penalties. Aggrieved by the said order, the respondent preferred appeal before learned Commissioner (Appeals) who was pleased to set aside the Order-in-Original and allow the appeal with consequential relief. Being aggrieved by the said order, Revenue have preferred appeal before this Tribunal.

3. Heard the learned A.R. for Revenue who relies on the grounds of appeal which is based on the show cause notice dated 27.10.2010.

4. Learned Counsel for the respondent have urged that the issue is no longer res-integra and the issue is covered in favour of Respondent by the precedent ruling of this Tribunal in the case of M/s Kanta Incorporation, in appeal No.ST/732/2010, 1014/2011, 50176 & 70155/2015-CU[DB], Final Order No.71142-71145/2016 dated 08.12.2016 and contended that said Final Order is squarely applicable in the present case.

5. Having considered the rival contentions and on perusal of the said Final order dated 08.12.2016, we find that the issue is squarely covered by the precedent decision of this Tribunal dated 08.12.2016 (supra),

wherein on the similar issue, this Tribunal has observed as follows:-

"Having considered the rival contentions, we find that the appellant is not engaged in the activity off designing, visualizing or conceptualizing the material which is present in the work provided by them. We further find that the Final Order dated 03.10.2016 passed by this Tribunal is squarely applicable in the present case. This Tribunal has held that if the services rendered by the appellant did not include the service in the nature of designing, conceptualizing and visualizing then such activity does not get covered by advertising agency services. Since the activity undertaken by the present appellant does not involved designing, visualizing and conceptualizing, the services provided by appellant in the present appeals do not get covered by advertising agency service. We, therefore, set aside all the above stated impugned Orders-in-Original and allow all the four appeals. The appellant shall be entitled for consequential relief, as per law."

6. Accordingly, we dismiss the appeal filed by the Revenue in above terms. Respondent-assessee shall be entitled for consequential benefits, as per law.

(Dictated in Court)

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

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

akp

प्रमाणित प्रति/Certified True Copy
29\10\18
सहायक पंजीकार/Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण(C.E.S.T.A.T.)
39, एम.जी.मार्ग, इलाहाबाद-211001
39, M. G. MARG,ALLAHABAD-211001