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: 09/08/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. ST/A/70743-70745/2017-CU[DB] dated 03/08/2017

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/708/2010	**U P STATE SUGAR CORPORATION LTD.** Amroha, Distt. J P Nagar. (U.P.)
2	ST/709/2010	**U P STATE SUGAR CORPORATION LTD.** Amroha, Distt. J P Nagar.(U.P.)
3	ST/710/2010	**U P STATE SUGAR CORPORATION LTD.** Amroha, Distt. J P Nagar.(U.P.)
		Name and Address of Respondent
4		-C.C.E. MEERUT II Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)
5		-C.C.E. MEERUT II Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)
6		-C.C.E. MEERUT II Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)

Other Appellants and Respondents as per Annexure

Copy To

7Advocate(s) / Consultant(s):

Ms. Stuti Saggi (Adv.)(ALLD)
102, MAHALAXMI ENCLAVE
(ADJ. INCOME TAX OFFICE),
STANLEY ROAD, CIVIL LINES,
ALLAHABAD (U.P.)-211001

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

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, REGIONAL BENCH : ALLAHABAD

DIVISION BENCH

ST/708, 709, 710/2010-CU(DB)

Date of Hearing/Decision: 03/8/2017

[Arising out of Order-in-Appeal No. 68-70-ST/MRT-II dated 25.2.2010 passed by Commissioner (Appeals), Central Excise, Meerut-II]

U.P. State Sugar Corporation Ltd. Appellant

Vs.

C.C.E.-Meerut-II Respondent

Appearance:

Present for the Appellant: Ms. Stuti Saggi (Advocate)
Present for the Respondent: Shri Mohammad Altaf (Asstt. Commissioner) A.R.

Coram: Hon'ble Shri Anil Choudhary, Judicial Member
Hon'ble Shri Anil G. Shakkarwar, Member (Technical)

Final Order No. 70743-70745/2017

Per: Anil Choudhary

Heard the parties. The issue involved in this appeal is with regard to levy of service tax paid on transportation of sugarcane from the cane collection centre to the sugar mill, initially paid by the appellant sugar mill but deducted from the price of the sugarcane payable to the farmer on the basis of an average rate. The issue herein has been squarely decided in favour of the appellant in earlier appeal between the parties vide Final Order No. ST/A/50679-50681/2014-CU(DB) dated 30.01.2014 reported at 2014 (34) S.T.R. 850 (Tri.-Del.), wherein under same facts and circumstances deciding in favour of the appellant, this Tribunal held when the transporter did not issue consignment notes or GRs or challans or any documents containing the particulars, in Explanation to Rule 4B of Service Tax Rules, 1994, the transporters cannot be called Good Transport Agency and, hence in the appellant's case the service of transportation of sugarcane provided by the transporter would not be covered by Section 65(105)(zzp). Accordingly, this Tribunal held that there will be no service tax liability on the appellant sugar mill as they have not received the service from a Goods Transport Agency. In view of this, Tribunal set aside the orders in the earlier appeal allowing the appeal. We also take notice of the fact that under the purchase agreement and the relevant State Act, the price fixed by the State Government of Uttar Pradesh to the farmers for the purchase of sugarcane includes the cost for delivery of sugarcane by the farmer to the sugar mill. Thus, we hold that the actual recipient of the transportation service is by the farmer and not the sugar mill, when admittedly transport cost has been recovered from the price of the sugarcane payable to the farmer. In view of this matter, we allow the appeal and set aside the impugned order. The appellant shall be entitled for consequential benefit, in accordance with law.

(Dictated and Pronounced in the open Court)

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

(K. Gupta)

प्रमाणित प्रति/Certified True Copy
14/08/17
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