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: 17/10/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. ST/A/71251-71252/2017-CU[DB] dated 03/10/2017

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/713/2011	**NOTHERN COAL FIELD LTD.,** BINA PROJECT, P.O. BINA, DISTT. SONBHADRA, (U.P.)
2	ST/714/2011	**NORTHEN COAL FIELD LTD,** DUDHICHUA PROJECT, P.O. KHADIA, DISTT. SONBHADRA (U.P.)

		Name and Address of Respondent
3		-C.C.E Allahabad 38,M.G.Marg, civil Lines, Allahabad
4		-C.C.E Allahabad 38,M.G.Marg, civil Lines, Allahabad

Other Appellants and Respondents as per Annexure

Copy To

5 Advocate(s) / Consultant(s):

Akshat Shrivastava & Abhijeet Srivastava,Adv
D-75, GULMOHAR PARK,
KHELGAON ROAD,
NEW DELHI,
DELHI

6 Bar Association, CESTAT, Allahabad

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

8 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3

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

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

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

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

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

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

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

16 C.D.R. 17 Office Copy 18 Second Folder Copy 19 Guard File

Asstt. Registrar

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

APPEAL Nos: ST/713 & 714/2011-CU[DB]

(Arising out of Order-in-Original No. (ST-58/10) 50 of 2010 dated 16/11/2010 in Appeal No. ST/713/2011-CU[DB] & Order-in-Original No. (ST-57/2010) 49 of 2010 dated 29/10/2010 in Appeal No. ST/714/2011-CU[DB] both are passed by Commissioner of Central Excise & Service Tax, Allahabad)

M/s Northern Coal Field Ltd. **Appellant (s)**

Vs.

Commissioner of Central Excise, Allahabad **Respondent (s)**

Appearance:

Shri Inderjeet Yadav (Advocate) for Appellant
Shri Mohd. Altaf (Asstt. Commr.) AR for Respondent

CORAM:

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

Date of Hearing : 03/10/2017
Date of Decision : 03/10/2017

FINAL ORDER NOs. 71251-71252/2017

Per: Anil Choudhary

Heard the Learned Counsel for the appellant and the Learned A.R. for Revenue.

2. These two appeals are preferred against the adjudication order dated 16/11/2010, confirming demand of Service Tax of Rs.64,28,273/- in Appeal No. ST/713/2011-CU[DB] and adjudication order dated 29/10/2010, confirming the demand of service tax of Rs.92,57,679/- in

Appeal No. ST/714/2011-CU[DB] along with interest and penalty, as specified therein. The demand is assessed on the premise that the appellant(s) received transport of goods by road service, defined in Section 65(50a) and (50b) read with Section 65(105) (zzp). The period involved in both the appeals is 01/01/2005 to 31/03/2008.

3. During the relevant period the appellant M/s Northern Coal Field Ltd., Singrauli (M.P.) engaged the services of several transporters for transport of mined coal from coal face to coal stockyards in appellant's own dumpers. From the coal stockyards the coal was loaded into tippers and conveyed to the coal handling plant situate within the mine premises. The tippers were weighed at the NCL weighbridge. At the weighbridge payment slips were generated disclosing relevant particulars such as truck number, gross weight etc. As the truck registration numbers are specific for each transporter, transport services undertaken by each of the contractors is eventually identified and payments were made on this basis. Statements of some other transporters engaged by the appellant(s) were recorded during the process of adjudication which revealed that no consignment notes were generated by the transporter and payments were made only on the basis of particulars generated during weighment.

4. Rejecting the contention of the appellant(s) that the activity falls outside the purview of transport of goods by road services, the impugned order confirmed the demand.

5. The definition of "Goods Transport Agency" in Section 65(50b) clearly specifies that Goods Transport Agency means any person who provides services in relation to transport of goods by road and issues a 'consignment note' by whatever name called. The Explanation under Rule 4B of the Service Tax Rules, 1994 clarifies that 'consignment note' is a document, issued by a Goods Transport Agency against the receipt of goods for the purpose of transport of goods in a goods carriage and contains other specified details.

6. Clearly, as no consignment note, as generally understood or delineated in Rule 4B was issued by the transporters to the appellant, in the transactions in issue, the classification by the impugned order that appellant received transportation of goods by road service, is unsustainable. Accordingly, the impugned order is quashed. The appeal is allowed. No costs.

(Dictated & Pronounced in Court)

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

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

प्रमाणित प्रति/Certified True Copy

Lks

31/10/17

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