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: 12/03/2018

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **A/70541/2018-SM[BR]** dated **09/03/2018**

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/70326/2017	**A G R Automobiles (p) Ltd** B-38/2a Mahmmrganj VARANASI UP 221313
		Name and Address of Respondent
2		C.C. & C.E. & S.T.-Allahabad 38...M G MARG...CIVIL LINES, ALLAHABAD, UTTAR PRADESH-211001

Copy To

3Advocate(s) / Consultant(s):

Vineet Kumar Singh,Advocate
5 Narain Nagar, Sector 11,
Indira Nagar,
Lucknow,
Uttar Pradesh

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/70326/2017-ST[SM]

(Arising out of Order-in-Appeal No.30-ST/APPL-ALLD/LKO/2017 dated 23/01/2017 passed by Commissioner (Appeals), Central Excise & Service Tax, Lucknow)

M/s AGR Automobiles (P) Ltd. **Appellant**

Vs.

Commissioner of Central Excise & Service Tax, Allahabad **Respondent**

Appearance:

Shri Vineet Kumar Singh, Advocate for Appellant
Shri Gyanendra Kumar Tripathi, Asstt. Commr (AR) for Respondent

CORAM:

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

Date of Hearing : 09/03/2018
Date of Decision : 09/03/2018

FINAL ORDER NO.—70591/2018........

Per: Anil G. Shakkarwar

The present appeal is arising out Order-in-Appeal No.30/ST/APPL-ALLD/LKO/2017 dated 23/01/2017 passed by Commissioner (Appeals), Central Excise & Service Tax, Lucknow.

2. The brief facts of the case are that the appellants were issued with a show cause notice dated 19/09/2013 stating that the appellant had provided taxable service of 'Renting of Immovable Property' valued at Rs.1,43,17,774/- during the period from October, 2008 to January, 2012 and did not pay

due service tax of Rs.15,07,892/- on provisions of siad service and therefore, the said amount of Service Tax was demanded through said show cause notice. The said show cause notice was adjudicated through the Order ~~Original~~-in-Original dated 12.09.2014 wherein the Original Authority passed an *ex-parte* order. Aggrieved by the said order, appellant preferred appeal before Learned Commissioner (Appeals). The appellant argued before the Learned Commissioner (Appeals) that the service mentioned in the said show cause notice was covered by an agreement and that they were not taxable as 'Renting of Immovable Property'. The Learned Commissioner (Appeals) did not interfere with the order of Original Authority dated 12/09/2014. Aggrieved by the said order, appellant is before this Tribunal.

3. Heard the Learned Counsel for the Appellant who has taken me through the statement of fact as stated in Para-5 of Appeal Memorandum. He has submitted that the appellant had deposited Rs.15,04,291/- before issue of show cause notice and that the Original Authority has appropriated Rs.12,24,269/- and that the entire amount of dues was paid before issue of show cause notice therefore, penalty is not imposable.

4. Heard the Learned A.R. who has supported the impugned Order-in-Appeal.

5. Having considered the submission and on perusal of records, I find that the fact of deposition on entire amount

demanded through said show cause notice was not brought to the notice of Original Authority and that Original Authority passed the order without hearing the appellant. I therefore, remand the matter back to the Original Authority and give liberty to the appellant to raise any additional grounds, if they wish to raise.

6. In above terms, by setting aside the impugned Order-in-Appeal, appeal filed by appellant is allowed by way of remand.

(Dictated & Pronounced in Court)

Sd/-

ANIL G. SHAKKARWAR

(MEMBER TECHNICAL)

akp

प्रमाणित प्रति/Certified True Copy
15/03/18
सहायक पंजीकार/Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण/C.E.S.T.A.T.
38, एम.जी.मार्ग, इलाहाबाद
38 M. G. MARG, ALLAHABAD