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: 27/03/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70298/2017-SM[BR] dated 23/03/2017

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/720/2009	**Commissioner of CUSTOMS-Meerut-i** EXCISE CHOWK...UNIVERSITY ROAD, MANGAL PANDEY NAGAR, MEERUT, UTTAR PRADESH 250005
		Name and Address of Respondent
2		Shri Margoob Ahmad S/o Shri Emamuddin Vill-burhampur,p.o.-kajiwala,, BIJNOR ,UP

Copy To

3Advocate(s) / Consultant(s):

AALOK ARORA
82-MISSION COMPOUND,
SAHARANPUR-247001

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, 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 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. 1

APPEAL No.ST/720/2009-ST[SM]

(Arising out of Order-in-Appeal No. 71-CE/MRT-I/2009 dated 29/06/2009 passed by Commissioner of Central Excise & Customs (Appeals), Meerut-I)

Commissioner of Central Excise & S.T., Meerut-i **Appellant**

Vs.

Shri Margoob Ahmad S/o Shri Emamuddin **Respondent**

Appearance:

Shri D.K. Deb, Assistant Commissioner (AR), for Appellant
Shri Aalok Arora, Advocate for Respondent

CORAM:

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

Date of Hearing : 23/03/2017
Date of Decision : 23/03/2017

FINAL ORDER NO.-70290/2017........

Per: Anil Choudhary

The present appeal is filed by the appellant-Revenue against Order-in-Appeal No. 71-CE/MRT-I/2009 dated 29/06/2009 passed by Commissioner of Central Excise & Customs (Appeals), Meerut-I.

2. The issue in this appeal is whether under the facts and circumstances that the respondent, a labour contractor who had undertaken the work of loading, unloading, stitching of sugar bags, in

dryer house, the sorting out of wet sugar bags, the filling of sugar from broken/damage sugar bags to new sugar bags, stitching of sugar bags, the shifting of sugar bags from one godown to another godown by buggy (animal driven cart), cleaning of godown and covering of sugar bags by 'tirpal' whether the said activity, admittedly carried out within the factory premises, amounts to taxable service under the definition of Cargo Handling Service.

3. The learned Commissioner (Appeals) have held that the services provided by the respondent do not fall under Cargo Handling Services relying on the ruling of this Tribunal in the case of K.K. Appachan Vs CCE reported at 2007 (7) STR 230, wherein under similar facts and circumstances, it was held that such activities are in the nature of ancillary activity in the factory of production and do not equate to Cargo Handling Service.

4. The learned A.R. for revenue relied on the grounds of appeal.

5. Having considered the rival contentions, I find that under similar facts and circumstances Hon'ble Jharkhand High Court in CCE Vs Modi Construction Company reported at 2011 (23) STR 6 (Jhar.), have held that handling of goods within the factory like shifting of finished and unfinished goods in factory premises is not covered under Cargo Handling Services. It was further elaborated that Cargo Handling Services means loading, unloading, packing or unpacking of cargo and cargo according to dictionary meaning is loading or unloading on truck, aircraft and ship etc. Accordingly, I

find no merit in the appeal of revenue and the same is dismissed. The respondent assessee will be entitled for consequential benefits.

(Dictated in Court)

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

akp

प्रमाणित प्रति / Certified True Copy
03\04\2017
सहायक रजिस्ट्रार / Asstt. Registrar
सीमाशुल्क, उत्पाद शुल्क एवं सेवा कर अपील अधिकरण / (C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001