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: 14/11/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71349/2017-SM[BR] dated 11/08/2017

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/730/2011	**VIJAY STAMBH TRADERS PVT. LTD.,** 84/31, KAMLA CLUB MAIN BUILDING, KALPI ROAD, KANPUR.
		Name and Address of Respondent
2		-C.C.E. KANPUR 117/7, Sarvodaya Nagar, Kanpur 208005.

Copy To

3Advocate(s) / Consultant(s):

AMIT AWASTHI
ADVOCATE
7/116A, H-1, 1ST 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/730/2011-ST[SM]

(Arising out of Order-in-Appeal No. 29-ST/APPL/KNP/2011 dated 31/01/2011 passed by Commissioner of Central Excise & Customs (Appeals), Kanpur)

M/s Vijay Stambh Traders Pvt. Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Kanpur **Respondent**

Appearance:

Shri Ashish Kumar Shukla & Shri Pranav Mittal, Advocates for Appellant
Shri Pawan Kumar Singh, Supdt (AR), for Respondent

CORAM:

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

Date of Hearing : 11/08/2017
Date of Decision : 11/08/2017

FINAL ORDER NO.71345/2017

Per: Anil Choudhary

The present appeal is filed by the appellant against Order-in-Appeal No. 29-ST/APPL/KNP/2011 dated 31/01/2011 passed by Commissioner of Central Excise & Customs (Appeals), Kanpur.

2. The admitted facts of the case are that the appellant were providing services as 'Sales Commission Agent' during the period April'06 to December'06 to J.K. Cement Ltd. The bill for such services was raised vide three bills

dated 11th December, 2006, 13th December, 2006 & 15th December, 2006 totaling Rs.94,94,253/-. M/s J.K. Cement issued payment by Cheque (s) dated 04th January, 2007, which has admittedly being cashed on 19th February, 2007 and 21st March, 2007. Appellant had deposited the tax, payable, under intimation to Revenue, which is admitted fact in para-5 of the show cause notice. Further, the assessee was called upon to show cause, as to why, the amount of Service Tax of Rs.11,62,096/- be not demanded, invoking the extended period of limitation.

3. Heard the parties.

4. Having considered the rival contentions, I find that under the admitted facts which are not disputed, invoking the extended period of limitation is bad. Further, I also take notice of the fact that show cause notice, have been issued after more than one and a half year, as the appellant have/had already deposited the full amount of Service Tax, which is an admitted fact. Accordingly, the show cause notice is also bad under the proviso to Section 73 (1) of the Finance Act.

5. Accordingly, the impugned order is set aside and appeal is allowed. So far as the invocation of the extended period of limitation, it is held is not invokable. Penalty under Section 76 of the Finance Act is also set aside as not maintainable.

(Dictated in Court)

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

akp

प्रमाणित प्रति/Certified True Copy
04/12/12
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