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: 23/02/2018

To

Appellant as per address in table below
Respondent as per address in table below

Final Order No. ST/A/70351/2018-CU[DB] dated 23/01/2018

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/51962/2015	**Saahil Enterprises** Indo-bulgar Foods Compound, Delhi-meerat Road GHAZIABAD UP 201001
		Name and Address of Respondent
2		C.C.E. & S.T.-Meerut-ii OPPOSITE SHAHEED SMARAK,DELHI ROAD...BHANSALI GROUND, MEERUT, UTTAR PRADESH-

Copy To
3Advocate(s) / Consultant(s):

R C Verma,Advocate
D-34,Patel nagar-2,Ghaziabad,U.P-201001

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/51962/2015-CU[DB]

(Arising out of Order-in-Appeal No. GZB/EXCUS/000/APP/265/2014-15 dated 19/12/2014 passed by Commissioner of Central Excise & Customs (Appeals-II), Meerut Zone at Noida)

M/s Saahil Enterprises **Appellant**

Vs.

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

Appearance:

Shri Rakshit Verma, Advocate, for Appellant
Shri Mohd. Altaf, Assistant Commissioner (AR), for Respondent

CORAM:

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

Date of Hearing & Date of Decision : 23/01/2018

FINAL ORDER NO. 70351/2018

Per: Anil G. Shakkarwar

The present appeal is filed by the appellant – M/s Saahil Enterprises against Order-in-Appeal No. GZB/EXCUS/000/APP/265/2014 dated 19/12/2014 passed by Commissioner of Central Excise & Customs (Appeals-II), Meerut Zone, Noida.

2. The brief facts of the case are that the appellants were issued with a Show Cause Notice dated 18/03/2013, wherein it was stated that on examination of the contracts made by the appellant with the service

recipients, the Audit Officers found that the conditions of Pure Agent were not being satisfied by them in case of the charges viz; Manpower, Telephone expense, freight on Stock Transfer, loading & unloading charges, Stationary Charges, Courier, Packing, Electricity, Office & Godown expenses, and therefore, the benefit of Rule 5(2) did not appear to be available to them and all the above charges received by them from service recipients were liable to be included in the taxable value of the services provided by them. For the said reason a demand of Service Tax of Rs.12,17,990/- was raised. The case proceedings culminated into passing of impugned Order-in-Appeal dated 19/12/2014, which was also decided against the appellant. Therefore, the appellant preferred present appeal before us.

3. Heard both the parties and considered the submissions.

4. On perusal of the facts on record, we find that neither the contracts made between the appellant with service recipients nor such conditions, which were required to be specified to be a Pure Agent were not specified and spelt out in the said Show Cause Notice. It was only stated that it was found by Audit Officers that the conditions of Pure Agent were not satisfied by the

appellant. Therefore, the allegations are bold and the Show Cause Notice is not sustainable. We, therefore, allow the present appeal. The appellant shall be entitled for consequential relief, as per law.

(Dictated in Court)

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

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

Ansari

प्रमाणित प्रति/Certified True Copy
14/03/18
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