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: 27/04/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. ST/A/70399/2017-CU[DB] dated 17/04/2017

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/53321/2014	**Sangam Transport** 9-e Lidlle Road, George Town, ALLAHABAD UP 211001
		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

3 Advocate(s) / Consultant(s):

SANJAY KUMAR,ADV
40.G.SARDAR PATEL
MARG, ALLAHABAD-
211001(UP)

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. I

APPEAL No. ST/53321/2014-CU[DB]

(Arising out of Order-in-Original No. (ST-88/2013) 06 of 2014 dated 25/02/2014 passed by Commissioner of Customs, Central Excise & Service Tax, Allahabad)

M/s Sangam Transport **Appellant**

Vs.

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

Appearance:

Shri Sanjeev Kumar, Advocate, for Appellant
Shri Sandeep Kumar Singh, Deputy 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: 17/04/2017

FINAL ORDER NO...70399/2017......

Per: Anil Choudhary

The present appeal is filed by the appellants – M/s Sangam Transport against Order-in-Original No. (ST-88/2013) 06 of 2014 dated 25/02/2014 passed by Commissioner of Customs, Central Excise & Service Tax, Allahabad.

2. The issue in this appeal is, whether the appellant who is engaged in delivery of food-grain as per directions of the Food Officers/District Supply Officer under PDS Scheme, by using own trucks, whether is liable to pay Service Tax on the transport charges received under the classification 'Goods

Transport Agency' (GTA) as defined under Section 65 (50b) of the Finance Act, 1994.

3. Heard both the parties.

4. Considering the rival contentions and on perusal of record, we find that the ld. Commissioner have confirmed the demand on the basis of finding – transport challan bearing No. 30569 dated 09/04/2013, which has been produced by the party and issued by the Regional Food Controller, Allahabad to the party, for movement of vehicle and found that the said document contains all required information in respect of the consignment. Accordingly, the said document was treated as issue of consignment note and the demand was confirmed.

5. The ld. counsel have taken us through copy of said challan. We find that the said challan has been prepared by the Officers of Regional Food Controller, Allahabad and the same is not issued by the appellant. From the definition of GTA the two essential elements for taxation are that transport by road and the transporter issues 'consignment note.' Upon consideration of the facts, we find that the second element is missing here, as admittedly no consignment note have been issued by the appellant-assessee. We find that the issue is no more *res-intega* and, this Tribunal, under similar facts, in the case of Commissioner of Central Excise, Aurangabad *Versus* M/s Shivaji Hanumantrao Hude reported at 2016-TIOL-1085-CESTAT-Mumbai have decided in favour of assessee.

Accordingly, we set aside the impugned order and allow the appeal. The appellants will be entitled to consequential benefits, if any, in accordance with law.

(Dictated and pronounced in Court)

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

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

Ansari

प्रमाणित प्रति/Certified True Copy
08/05/2017
सहायक पंजीकार/Asstt. Registrar
सीमा शुल्क, 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