FAX : 0532-2400149

REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

To

Dated: 26/07/2017

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

Final Order No. ST/A/70705/2017-CU[DB] dated 12/04/2017

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/54093/2014	**U P Co Operative Sugar Factories Federation Ltd** Sahakari Chini Bhawan. 9-a, Rana Pratap Marg, LUCKNOW, UP
		Name and Address of Respondent
2		C.C.E. & S.T.-Lucknow 7-A...ASHOK MARG, LUCKNOW, UTTAR PRADESH-226001

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

T. K. Srivastava
311, Murli Bhawan,
Ashok Marg,
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, 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/54093/2014-CU[DB]

(Arising out of Order-in-Original No. 01/Commr./LKO/ST/2014-15 dated 09/05/2014 passed by Commissioner of Central Excise & Service Tax, Lucknow)

M/s U P Co Operative Sugar Factories Federation Ltd. **Appellant**

Vs.

Commissioner of Central Excise & S.T., Lucknow **Respondent**

Appearance:

Shri T.K. Srivastava, Advocate for Appellant
Shri Rajeev Ranjan, Joint Commissioner (AR), for Respondent

CORAM:

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

Date of Hearing : 12/04/2017
Date of Decision : 12/04/2017

FINAL ORDER NO.-70705/2017.........

Per: Anil Choudhary

This appeal has been preferred by M/s UP Cooperative Sugar Factories Federation Ltd., Lucknow against Order-in-Original No. 01/Commissioner/LKO/ST/2014-15 dated 09.05.2014 by which it have been held that the appellant is liable to pay service tax on the contribution made by its members which are sugar Mills, amounting to Rs.2,53,71,575/- along with equal amount of penalty for the period from

Aon

October'2006 to 09th May'2008.

2. Show cause notice dated 20/04/2012 was issued stating that the appellant is providing certain services to cooperative sugar factories, and collecting considerable amount from them. In the course of investigation, it was noticed that appellant is receiving subscription @ Rs.5 and Rs. 10 per bag from different Cooperative Sugar Mills on account of sugar produced. This payment is being received, in lieu of various services provided by appellant. These services, it appeared in the nature of 'Business Auxiliary Service', which have become taxable service with effect from 07/01/2003 as defined under Section 65 (19) of the Act. The show cause further states that the appellant is liable to pay service tax for the subscriptions collected for the period from 2006-07 till the date of SCN. The SCN was adjudicated on contest and the proposed demand for the period from October'06 to 2010-11 Rs.2,53,71,575/- was confirmed with equal amount of penalty under Section 78 of the Finance Act. Penalty was also imposed under Section 76, 77(1)(a) and also Late Fee of Rs.1,80,000/- under Section 70 read with Rule 7C of Service Tax Rules, 1994.Being aggrieved, the appellant is before this Tribunal.

3. The learned Counsel for the appellant urges that the

issue is no longer res-integra and the same is squarely covered by the decision of a Coordinate Bench ruling of this Tribunal in the case of Punjab State Federation of Cooperative Sugar Mills Ltd. Vs Commissioner of Central Excise, Chandigarh, 2014 (36) STR 110 (Tri.-Del.) wherein under similar facts and circumstances relying on the ruling of Jharkhand High Court in the case of Ranchi Club Ltd. Vs Chief Commissioner ~~of Income Tax~~ reported at 2012 (26) STR 401 (Jhar.) and also relying on the rulings of Delhi High Court and Gujarat High Court in similar matters, it was held as follows: –

"6. It is not disputed that the appellant is a Federation of the Cooperative Sugar Mills of Punjab and in terms of the charter of its functions, it is required to monitor the functioning of its Member Sugar Mills and provide guidance to them from time to time for improving their efficiency. In view of this, the activity of the appellant have to be treated as club or association service as defined under Section 65(25a) of the Finance Act, 1994 and hence in view of the judgment of the Tribunal in the case of *Federation of Indian Chambers of Commerce and Industry* v. *CST, Delhi* and *M/s. Electronic and Computer Software Export Promotion Council* v. *CST, Delhi* reported in 2014-TIOL-701-CESTAT-DEL., which is based on the judgment of Hon'ble Jharkhand High Court in the case of *Ranchi Club Limited* v. *CCE & ST* reported in 2012 (26) S.T.R. 401 (Jhar.) = 2012-TIOL-1031-HC-JHARKHAND-ST, and of Hon'ble Gujarat High Court in case of *Sports Club of Gujarat Ltd.* v. *Union of India Ltd.* reported in 2013-TIOL-528-HC-AHM-ST = 2013 (31) S.T.R. 645 (Guj.) no service tax would be chargeable on the amount being received by the appellant from its Member Sugar Mills. The impugned order is, therefore, not sustainable. The same is set aside. The appeals are allowed."

4. Accordingly, we find that the issue is squarely

covered by the precedent ruling of this Tribunal in the case of Punjab State Federation of Co-operative Sugar Mills Ltd. (supra).

5. Thus, we allow this appeal and set aside the impugned order. The appellant will be entitled to consequential benefits, in accordance with law.

(Dictated in Court)

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

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

akp

प्रमाणित प्रति/Certified True Copy
03/08/17
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