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: 28/02/2018

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

Final Order No. ST/A/70414/2018-CU[DB] dated 10/01/2018

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/MISC/70397/2017	ST/56071/2014	**Tirupati Automobiles** Vidur Kuti Road BIJNOR UP
		Name and Address of Respondent
2		C.C.E. & S.T.-Meerut-i EXCISE CHOWK...UNIVERSITY ROAD,MANGAL PANDEY NAGAR, MEERUT, UTTAR PRADESH-250005

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, 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

Date of Hearing/Order: 10.1.2018

Appeal No. ST/56071/2014-DB with ST/Misc/70797/2017

(Arising out of Order-in-Original No. MRT-EXCUS-000-COM-030-14-15 dated 29.8.2014 passed by Commissioner, Central Excise, Meerut)

M/s Tirupati Automobiles — Appellant

Vs.

CCE, Meerut-I — Respondent

<u>Appearance</u>

Shri Aalok Arora, Advocate - for the appellant

Shri Gyandendra Kumar Tripathi, D.R. - for the respondent

CORAM: Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon"ble Mr. Anil G. Shakkarwar, Member (Technical)

Final Order No. 70414/2018

Per Ms. Archana Wadhwa:

The appellant is registered with the Service Tax Department for providing services under the category of 'authorised service station'. During the scrutiny of the records by the Revenue, it was found that the appellant was paying service tax on the repair of the vehicles by taking into consideration the value of the repair and labour charges without including the value of the spare parts/oils/lubricants used during the services, which were being shown separately in the bills. By entertaining a view that the value of the spare parts, oil and lubricants would be includible in the value of the service, proceedings were initiated against the appellant by way of show cause notice dated 9.10.2013 raising demand of service tax to the tune of Rs. 90.20 lakhs approximately for the period April 2008 to March 2013, by invoking the longer period of limitation. The said show cause notice stand culminated into the impugned order passed by the Commissioner. Hence, the present appeal.

2. After hearing both the sides duly represented by Shri Aalok Arora, ld. Advocate for the appellant and Shri Gyanendra Kumar Tripathi, ld. AR for Revenue,

3. We find that the short issue required to be decided in the appeal is as to whether the value of the spare parts/consumables used at the time of service of motor vehicles is required to be added in the assessable value of the services or not. We note that the issue is no more res integra. In the case of M/s *Tanya Automobiles (P) Ltd. Vs. CCE & ST, Meerut-I* - 2016 (43) STR 155 (Tri.-All.), it was held that servicing of motor vehicle would call for payment of service tax only on the repair charges and would not include value of spare parts and lubricants in the assessable value. While holding so, the Tribunal followed the earlier order of the Tribunal in the case of *Samtek Industries Vs. CCE, Kanpur* - 2015 (38) STR 240 (Tri. - Del.) and also made reference to various circulars issued by the Board. To the same effect ~~or~~ are decisions in the case of *Automotive Manufacturers P. Ltd. Vs. CCE, Nagpur* - 2015 (38) STR 1191 (Tri.-

Mum.) and *Ketan Motors Ltd. Vs. CCE & ST, Nagpur* – 2014 (33) STR 165 (Tri.-Mum.).

4. Inasmuch as the issue stands decided, we find no merits in the Revenue's stand. Accordingly, the impugned order is set aside and appeal allowed with consequential relief. Misc. Application for early hearing stands disposed of.

(Pronounced in Court)

Sd/-
Anil.G. Shakkarwar
Member(Technical)

Sd/-
(Archana Wadhawa)
Member (Judicial)

प्रमाणित प्रति/Certified True Copy
13/03/18
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

RM