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: 07/06/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. ST/A/70528/2017-CU[DB] dated 10/04/2017

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/MISC/70052/2017	ST/55407/2013	**Technical Associates Ltd** Faizabad Road LUCKNOW U.P
			Name and Address of Respondent
2			C.C.E. & S.T.-Lucknow 7-A...ASHOK MARG, LUCKNOW, UTTAR PRADESH-226001

Copy To

3 Advocate(s) / Consultant(s):

Kapil Vaish
2nd floor, Part-A Krishna
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Garden, Civil Lines, Bareilly,
UP
Bareilly
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

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, REGIONAL BENCH: ALLAHABAD

DIVISION BENCH

Misc. Application No. ST/Misc./70052/2017
Appeal No. ST/55407/2013-CU(DB)

Dated of Hearing/decision: 10/4/2017

[Arising out of Order-in-Original No. 23-COMM/LKO/ST/2012-13 dated 06.12.2012 passed by Commissioner, Customs & Excise, Lucknow]

Technical Associates Ltd — Appellant

Vs.

C.C.E. & S.T.-Lucknow — Respondent

Appearance:
Present for the Appellant: Shri Kapil Vaish (C.A.)
Present for the Respondent: Shri D.K. Deb (Assistant Commissioner) A.R.

Coram: Hon'ble Shri Anil Choudhary, Member (Judicial)
Hon'ble Shri Anil G. Shakkarwar, Member (Technical)

Final Order No. 70528/2017

Per: Anil Choudhary

The appeal filed by the appellant-assessee against Order-in-Original No. 23-COMM/LKO/ST/2012-13 dated 06.12.2012 passed by Commissioner, Customs & Excise, Lucknow.

2. The issue involved in the above appeal is

> "Whether the appellant who are engaged in repair of transformer, as stipulated under Notification No. 12/2003-S.T., dated 20-6-2003, are liable to pay service tax on gross value of bill charges from customers as laid down under Section 67 of the

Finance Act, 1994, or entitled to deduction of material component".

3. Heard the parties.

4. We find that the issue in this appeal is squarely covered by the ruling of Hon'ble Allahabad High Court in CCE V/s Mahendra Engineering Ltd., reported in 2015 (38) S.T.R. 233 (All.), as relied upon by the appellant's Counsel. We quote the relevant Paras from the said judgement –

5. 'The issue before the Tribunal was whether the assessee was liable to pay Service Tax on the gross amount charged in the repair of transformers including value of consumables like transformer oil and component parts. The Tribunal has observed that in the invoices issued by the assessee, the value of goods used, such as transformer oil and service charges are shown separately and in respect of the supply of consumables used in providing the service of repair, sales tax or, as the case may be, VAT is paid. The Tribunal, in this factual situation, observed that when the value of goods used was shown separately in the invoices on which sales tax or VAT has been paid, the Service Tax would be chargeable only on the service/labour component and the value of goods used for repair would not be includible in the assessable value of service.

6. The learned counsel appearing on behalf of the Revenue has fairly placed before the Court a decision of this Court in Commissioner, Customs and Central Excise v. Balaji Tirupati Enterprises [reported in 2013 (32) S.T.R. 530 (All.)] in which a similar issue was answered *against the Revenue. In the grounds which have been formulated by the Revenue, the admitted position of fact has not been disputed, as stated in the order of the Tribunal. Hence, the appeal will not give rise to any substantial question of law particularly having regard to the earlier judgment of the Division Bench in Balaji Tirupati Enterprises (supra)."*

7. The appeal is, accordingly, allowed, with consequential benefits. Miscellaneous application is also disposed of as infructuous.

8. The said ruling of Hon'ble Allahabad High Court in Mahendra Engineering Ltd., we are informed, have been accepted by Central Board of Excise & Customs.

(Dictated and pronounced in the open Court)

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

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

(K. Gupta)

प्रमाणित प्रति/Cerified True Copy
14/06/2017
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