

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: 15/09/2017

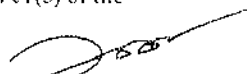
To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71026/2017-SM|BR| dated 11/09/2017

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/70061/2015	Mahendra Singh & Company R.I.-near Vip Guest House Anpara SONEBHADRA UP
		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):

SANTOSH KUMAR MISHRA
ADVOCATE
8 MAHATMA GANDHI
MARG, ALLAHABAD-211001

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
Old Red Building, 38 M.G. Marg, Civil Lines,
Allahabad – 211 001**

COURT NO. II

DATE OF HEARING/DECISION : 11/09/2017.

Service Tax Appeal No. 70061 of 2015 (SM)

[Arising out of the Order-in-Appeal No. 72/ST/ALLD/2014 dated 03/12/2014 passed by The Commissioner (Appeals), Customs, Central Excise & Service Tax, Allahabad.]

M/s Mahendra Singh & Company

Appellant

Versus

CCE & ST, Allahabad

Respondent

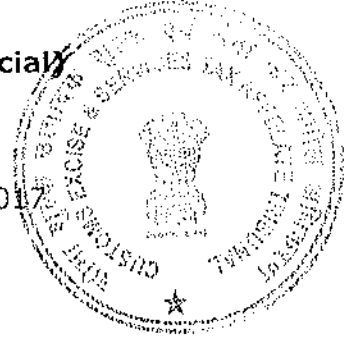
Appearance

Shri Santosh Kumar Mishra, Advocate – for the Appellant.

Shri P.K. Dubey, Authorized Representative (DR) – for the Respondent.

CORAM: Hon'ble Shri Ashok Jindal, Member (Judicial)

Final Order No. 71026/2017 Dated : 11/09/2017



Per. Ashok Jindal :-

The appellant is in appeal against the impugned order wherein demand has been confirmed on the basis of investigation conducted in the factory of M/s Anpara Power Corporation, Anpara and it was found that appellant has received service for an amount of Rs. 3,20,05,020/- whereas they have paid service tax only Rs. 11,54,566/-. The appellant is registered under the category of repair and maintenance services. A show cause notice

Ashok Jindal

was issued to the appellant for short payment of service tax. During the adjudication the opportunity was granted to the appellant to present their case but the appellant did not attend the proceedings, therefore, an ex-party order was passed. The said order was challenged before the learned Commissioner (Appeals) who affirmed the adjudication order on the ground that as Adjudicating Authority has given sufficient opportunity to the appellant and the appellants did not appear before the Adjudicating Authority but did not consider the merits of the appeal. Aggrieved from the said order, the appellant is before me.

2. Heard the parties considered the submissions.

3. Considering the fact that both the authorities below have not passed the order on merits and passed ex-party order without going through the merits of the case. In that circumstances, I hold that principle of natural justice has been violated. Therefore, the matter needs re-examination at the end of Adjudicating Authority. In that circumstances, I remand back the matter to the Adjudicating Authority. Keeping all issues open with the direction to the appellant to approach to the Adjudicating Authority alongwith a copy of this order on **23rd October, 2017** with relevant documents and on the said date, the Adjudicating Authority shall fix the date of hearing in the matter and thereafter after hearing the appellant shall pass an appropriate order in accordance with law.

[Handwritten signature]

(Dictated and pronounced in open court.)

Member(Judicial)

Certified True Copy

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राष्ट्रिय न्यायालय (National Registrar)
न्यायालय, रायपुर (Rajapur Court)
सदर न्यायाधीश (S.D.J.)
38, राज. मार्ग, कोलकाता-211001
38, M. G. MARG, KOLKATA-211001