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: 24/11/2017

To

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

Final Order No. A/71587/2017-SM[BR] dated 16/11/2017

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/70097/2015	Sks Chini Mills Ltd Nanpara BAHRAICH 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):

Jatin Mahajan (Adv.),Vikrant Kackria
KAKARIA & ASSOCIATES, SCF-55, 2nd FLOOR, SECTOR 8, PUNCHKULA, HARYANA
Panchkula,
Haryana

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 AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

S.T.Appeal No.70097/15

Arising out of O/A No.281/ST/APPL-LKO/LKO/2015 dated 28.07.2015 passed by Commr.of Central Excise, Customs & S.Tax, Lucknow

M/s SKS Chini Mills Ltd.

...APPELLANT(S)

VERSUS

Commr. of Central Excise, Customs & S.Tax, Lucknow

RESPONDENT (S)

APPEARANCE

Shri Jatin Mahajan, Advocate for the Appellant (s)
Shri Pawan Kr.Singh, Supdt. (A.R.) for the Revenue

CORAM:

MRS. ARCHANA WADHWA, HON'BLE JUDICIAL MEMBER

DATE OF HEARING/DATE OF DECISION : 16. 11. 2017

Final ORDER NO. 71587/2017

Per Mrs.Archana Wadhwa :

After hearing both sides, I find that the dispute relates to abatement of 75% availed by them, who had discharged their service tax liability on reverse charge basis, in respect of GTA services, so availed by them. The lower authorities have denied the said abatement on the sole ground that in terms of Notification No.12/2003-ST dated 20.06.2003, the declaration on the consignment notes is required to be made by the GTA service provider to the extent that he has not taken any cenvat credit in respect of capital goods, which declaration, does not stand made by them.

2. On the other hand, it is the assessee's contention that inasmuch as the said transporter agency was not paying any service tax and was not even registered with the service tax Department, the question of availing any

credit on the inputs or the capital goods does not arise. They have placed reliance on the Tribunal's decision in the case of CCEx., Rajkot Vs. Sunhill Ceramics Pvt. Ltd. : 2008 (9) STR 530 (Tri.) as also in the case of CCEx., Visakhapatnam Vs. A. P. Paper Mills : 2010 (17) STR 242 (Tri.).

3. I find that an identical issue has also been decided by the Commissioner (Appeals) in the case of Bhuwalka Pipes Pvt. Ltd. : 2009 (16) STR 353 (Commr.-Appl.). The Commissioner (Appeals) has followed the precedent decisions of the Tribunal and has held that inasmuch as the Transporters were not registered with the Service Tax Department, the procedure of making a declaration on the consignment note is only a simple formalities and cannot come in the way of extension of abatement to the assessee, who has paid the service tax on reverse charge basis.

4. Inasmuch as the issue is decided, I set aside the impugned order and allow the appeal with consequential relief to the appellant.

Dictated and pronounced in the open Court

Sd/-
(Archana Wadhawa)
Member(Judicial)

mm

प्रमाणित प्रति/Certified True Copy
15/12/2017

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