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: 17/11/2017

To

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

Final Order No. A/71425/2017-SM[BR] dated 10/11/2017

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/70179/2015	**Omica Associates** 22,turra Barrier,wards No.- 09pipri,p.o.-turra SONEBHADRA UP- 231221
		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
3Advocate(s) / Consultant(s):

RAKESH KUMAR
AT-MURDHWA,(BEHIND
RADHA KRISHNA
MANDIR)P.O.RENUKOOT,DIST-
SONEBHADRA,UP-231217

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
COURT No. I

APPEAL No.ST/70179/2015-ST[SM]

(Arising out of Order-in-Appeal No. 151/ST/ALLD/2015 dated 18/09/2015 passed by Commissioner of Central Excise & Customs (Appeals), Allahabad)

M/s Omica Associates, **Appellant**

Vs.

Commissioner of Central Excise, Allahabad **Respondent**

Appearance:

Shri Rakesh Kumar, Advocate for Appellant
Shri Sandeep Kumar Singh, Assistant Commissioner (AR), for Respondent

CORAM:

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

Date of Hearing : 10/11/2017
Date of Decision : 10/11/2017

FINAL ORDER NO.-71425/2017.......

Per: Anil Choudhary

The brief facts in this case are that the appellant is a service provider under 'Manpower Recruitment Agency', providing service to M/s Aditya Birla Chemicals (India) Ltd. at Renukoot. On some information, being collected by revenue from the service receiver, it appeared that the appellant have received gross amount of Rs.18,03,805/- on which service tax of Rs.1,68,442/- is payable. It appeared that the appellant have paid service tax of only Rs. 40,036/- and as such they have short paid service tax Rs.1,28,406/-. The SCN dated 23.09.2011 was issued. The said show cause notice is adjudicated vide Order-in-Original dated 31st March, 2014 wherein it was contended by the appellant that they had raised invoice of Rs.1,81,777/- in April, 2010 and payment for the same was received in April, 2011, and they have paid the entire service tax with interest and also submitted details of service tax payment, copies of challans and ledger for the relevant period January, 2010 to December, 2010. The proposed demand of short paid service tax was confirmed along with equal amount of penalty under Section 78 of the Act.

2. Being aggrieved, the appellant preferred appeal before learned Commissioner (Appeals) who vide the impugned order was pleased to reject the appeal. Being aggrieved the appellant is before this Tribunal.

3. Learned Counsel for the appellant states that there is factual error in the show cause notice. As on the date of show cause notice, out of the proposed amount short paid of Rs.1,28,406/- they had deposited the balance amount save and except Rs. 11,176/-, which amount is attributable to rate receipt of bill raised for the month of April 2010, but payment of the same were received only in April, 2011. Further, the said amount also stands paid

by two challan dated 10th July and 16th December, 2015, aggregating Rs.11, 176/-.

4. Heard the parties.

5. Having considered the rival contentions, I find that only an small amount of Rs.11,000/- approx was outstanding out of the gross amount of tax Rs.1,68,442/- which is also subsequently paid. Further, I find that adequate explanation have been given for subsequent payment of the said amount in arrears. Accordingly, I find that no case of penalty under Section 78 is made out. Accordingly, the penalty imposed is not sustainable.

6. Thus, the appeal stands allowed to the extent, as indicated here in above.

(Dictated in Court)

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

akp

प्रमाणित प्रति/Certified True Copy
11/12/2017
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