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: 02/01/2018

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70030/2018-SM[BR] dated 01/01/2018

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/70273/2017	**Genins India Tpa Ltd** D-34, Ground Floor, Sector-2, NOIDA U.P.
		Name and Address of Respondent
2		C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307

Copy To

3Advocate(s) / Consultant(s):

Rajesh Chhibber (Adv.) C/O
A. K. Batra & Associates
A-36, Ist Floor,
Rajouri Garden, Ring Road,
New Delhi,
Delhi

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/70273/2017-ST[SM]

(Arising out of Order-in-Appeal No. NOI/SVTAX/000/APPL-I/330/2016-17 dated 13/02/2017 passed by Commissioner of Central Excise (Appeals-I), Meerut)

M/s Genins India TPA Ltd. **Appellant**

Vs.

Commissioner of Service Tax, Noida **Respondent**

Appearance:

Shri Rajesh Chhibber(Advocate) for Appellant
Shri Gyanendra Kumar Tripathi (Asstt. Commr.) AR for Respondent

CORAM:

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 28/12/2017
Date of Decision : 28/12/2017

FINAL ORDER NO: 70030/2018

Per: Anil G. Shakkarwar

Present appeal is arising out of Order-in-Appeal No. NOI/SVTAX/000/APPL-I/330/2016-17 dated 13.02.2017 passed by Commissioner of Central Excise (Appeals-I), Meerut.

2. Brief facts of the case are that the appellant debited an amount of Rs. 26,56,940/- on 11.11.2014 in compliance to Audit report bearing FAR No. 126/2014-15. The said debit was made in compliance to Rule 6(3) of Cenvat Credit Rules,

2004. Further, through letter dated 29 October, 2015 and 04 November, 2015, appellant informed the Jurisdictional Officer that they were not providing any exempted service and, therefore, the said amount of Rs. 26,56,940/- reversed by them on 11.11.2014 may be refunded to them. They were issued with a show cause notice dated 07.01.2016 proposing to reject the claim. The claim was rejected through Order-in-Original No. 206/R/AC/N-I/2015-16 dated 22.03.2016. The Original Authority has held that once the appellant had accepted audit objection and debited the amount, they are not liable for refund. Aggrieved by the said order appellant preferred appeal before Commissioner (Appeals). Learned Commissioner (Appeals) through impugned order has held that sub Rule (3) of Rule 6 of Cenvat Credit Rules is not applicable in the present case. However, while holding so the learned Commissioner (Appeals) as ordered to include the cost of medical examination/test reports received by the appellant from LIC in the taxable value. Aggrieved by the said order appellant is before this Tribunal.

3. Heard the learned counsel for the appellant he has submitted that inclusion of cost of medical examination etc., in the taxable value was not the subject matter of proceedings in the present case. Therefore, that part of the order in impugned Order-in-Appeal has travelled beyond the

proceedings of the case and, therefore, the same may be deleted from the proceedings.

4. Heard the learned AR who has agreed that value of taxable service was not the subject matter of proceedings.

5. Having considered the submissions from both sides and on perusal of record, I uphold the finding by the learned Commissioner (Appeals) that sub Rule (3) of Rule 6 of Cenvat Credit Rules, 2004 was not applicable in the present case. However, I deleted that part from the impugned Order-in-Appeal which relates to inclusion of cost of medical examination and test reports received by the appellant from LIC ordered to be included in the taxable value since, the same not subject matter of litigation in the present case. I, therefore, modify the impugned Order-in-Appeal to that extent and direct the Original Authority to allow refund of Rs. 26,56,940/- to the appellant. In above terms appeal is allowed. The Original Authority shall consider payment of interest on the refund.

(Dictated and pronounced in Court)

Sd/-

ANIL G. SHAKKARWAR

(MEMBER TECHNICAL)

Ankit

प्रमाणित प्रति/Certified True Copy

21/02/18

सहायक पंजीकार/Asstt. Registrar
सीमा शुल्क, उत्पाद शुल्क एवं सेवा कर अपील अधिकरण (C.E.S.T.A.T.)
38, एम.जी.मार्ग, इलाहाबाद-211001
38 M. G. MARG, ALLAHABAD-211001