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/71588-71589/2017-SM[BR] dated 13/11/2017

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/70283/2017	**Laxmi And Sons** Rajendra Nagar, Orai JALAUN UP
2	ST/70284/2017	**Dharmendra Communications Jalaun** Dharmendra Saxena C/o Dharmendra Communication JALAUN UP
		Name and Address of Respondent
3		C.C.E. & S.T.-Kanpur 117/7...SARVODYA NAGAR, KANPUR, UTTAR PRADESH-208005
4		C.C.E. & S.T.-Kanpur 117/7...SARVODYA NAGAR, KANPUR, UTTAR PRADESH-208005

Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s):

VINEET K SINGH
NARIAN NAGAR,Sector-11,
Indira Nagar, Lucknow UP

6 Bar Association, CESTAT, Allahabad

7 Director Publications, Customs, Excise. I.P. Estate, Delhi

8 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3

9 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

10 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

11 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

12 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

13 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

14 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

15 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

16 C.D.R. 17 Office Copy 18 Second Folder Copy 19 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

S.T.Appeal Nos.70284,70283/17

Arising out of O/A No.25-30/ST/APPL/KNP/2017 dated 23.01.2017 passed by Commr. (Appeals) of Central Excise, Customs & S.Tax, Kanpur

M/s Dharmendra Communications Jalaun
M/s Laxmi & Sons

...APPELLANT(S)

VERSUS

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

RESPONDENT (S)

APPEARANCE

Shri Vineet Kr. Singh, Adv. for the Appellant (s)
Shri Gyanendra Tripathi & Pawan Kr.Singh, both Asstt. Commissioner (A.R.) for the Revenue

CORAM:

MRS. ARCHANA WADHWA, HON'BLE JUDICIAL MEMBER

DATE OF HEARING/DATE OF DECISION : 15. 11. 2017

Final ORDER NO. 71588-71589/2017

Per Mrs.Archana Wadhwa :

Both the appeals are being disposed of by a common order as the issue involved is identical.

2. The appellants are engaged in sale of Sim Card of M/s Bharat Sanchar Nigam Ltd. (M/s B.S.N.L.). Revenue by entertaining a view that the said activities fall under the category of Business Auxiliary Service, raised the demand of service tax against them, which was confirmed by the original authority.

3. It is seen that the Commissioner (Appeals) disposed of number of appeals of different appellants involving the same issue. In respect of other

appellants, he took note of the fact that as M/s BSNL has paid service tax of the full value of the SIM Card, the demand against the assessee was not justified. However, in respect of the present appeals, he rejected the appeals on the issue of time bar by observing that the same stands filed with a delay of more 30 days. Inasmuch as he has no power to condone the delay, the appeals were rejected.

4. On matter being called, it is seen that the issue has been decided by various decisions of the Tribunal on merits. However, the fact that the appeals filed before the Commissioner (Appeals) were barred by limitation or not, as also the fact whether the delay of more than 30 days or not, is required to be considered, for which purposes I set aside the impugned order and allow the appeals by way of remand. Needless to say that the appellants would be given an opportunity to put forth their case.

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