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: 20/09/2017

To

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

Final Order No. A/71076/2017-SM[BR] dated 07/09/2017

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/70713/2016	**Hcl Comnet Ltd** A-10-11,sector-3 NOIDA UP
		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):

V. Lakshmi Kumaran, ALD
3/1A/3 OPP AUTO SALES,Above
the Office Of Blue Dart/DHL
Courier, COLVIN ROAD, LOHIA
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
REGIONAL BENCH : ALLAHABAD
COURT No. 2

APPEAL No. ST/70713/2016-ST[SM]

(Arising out of Order-in-Appeal No. NOI/SVTAX/000/APPEALS-I/615/2015-16 dated 31/03/2016 passed by Commissioner of Central Excise (Appeals-I), Meerut)

M/s HCL Comnet Ltd. — **Appellant**

Vs.

C.C. & C. E. & S.T., Noida — **Respondent**

Appearance:

Shri Hrishikesh Jha, Advocate, — for Appellant
Shri Mohd. Altaf, Assistant Commissioner (AR), — for Respondent

CORAM:

Hon'ble Mr. Ashok Jindal, Member (Judicial)

Date of Hearing & Date of Decision : 07/09/2017

FINAL ORDER NO. 71076/2017

Per: Ashok Jindal

The appellant is in appeal against the impugned order, wherein Cenvat credit availed by the appellant has been denied on the services namely Guest House & House Keeping Service on the premise that these services do not qualify as input service as per Rule 2(l) of Cenvat Credit Rules, 2004 during the period 2009-11. By invoking the extended period of limitation, a Show Cause Notice has been issued to the appellant on 07/04/2014.

2. Heard the ld. Counsel for the appellant who has submitted that the Show Cause Notice has been issued by

Ashok Jindal

invoking the extended period of limitation. The same is not sustainable as in Para 5.3 of the impugned order, the ld. Commissioner (Appeals) held that the issue of availment of Cenvat credit on Guest House & House Keeping Service is in the nature of interpretation of law and refrained from imposing penalty on the appellant. In that circumstances, extended period of limitation is not invokable. Therefore, impugned order qua denial of Cenvat credit on Guest House & House Keeping Service is to be set aside.

3. On the other hand, ld. A. R. for Revenue reiterated the findings of the impugned order.

4. Heard the parties and considered the submissions and perused the facts on record.

5. I find that in this case, the Show Cause Notice has been issued by invoking extended period of limitation and the ld. Commissioner (Appeals) has given a categorical finding in the impugned order that the issue relating to Cenvat credit availed on Guest House & House Keeping Service is in the nature of interpretation of law. The said finding of the ld. Commissioner (Appeals) has not been challenged by the Revenue. In that circumstance the same has attained finality to the issue in the nature of interpretation of law. In that circumstance, I hold that extended period of limitation is not invokable. Therefore, the impugned order is set aside qua the denial of Cenvat credit availed on Guest House & House Keeping Service. In result, the appeal is allowed with

consequential relief to the appellant, if any, in accordance with law.

(Dictated & Pronounced in Court)

Sd/-

(Ashok Jindal)

Member(Judicial)

Ansari