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: 15/09/2017

To

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

Final Order No. A/71061-71063/2017-SM[BR] dated 13/09/2017

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/70765/2016	**Rlbl Associates** Station Road DEORIA UP
2	ST/70766/2016	**Rlbl Associates** Station Road DEORIA UP
3	ST/70767/2016	**Rlbl Associates** Station Road DEORIA UP
		Name and Address of Respondent
4		C.C. & C.E. & S.T.-Allahabad 38...M G MARG...CIVIL LINES, ALLAHABAD, UTTAR PRADESH-211001
5		C.C. & C.E. & S.T.-Allahabad 38...M G MARG...CIVIL LINES, ALLAHABAD, UTTAR PRADESH-211001
6		C.C. & C.E. & S.T.-Allahabad 38...M G MARG...CIVIL LINES, ALLAHABAD, UTTAR PRADESH-211001

Other Appellants and Respondents as per Annexure

Copy To

7 Advocate(s) / Consultant(s):

Nilkil Saraf & associates
Varanasi

8 Bar Association, CESTAT, Allahabad

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

10 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

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

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

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

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

15 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad -- 38

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

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

18 C.D.R. 19 Office Copy 20 Guard File

Asstt. Registrar

**IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
Old Red Building, 38 M.G. Marg, Civil Lines,
Allahabad – 211 001**

COURT NO. II

DATE OF HEARING : 13/09/2017.
DATE OF DECISION : 13/09/2017.

Service Tax Appeals No. 70765-70767 of 2016 (SM)

[Arising out of the Order-in-Appeal No. 320-322/ST/APPL-ALLD/ LKO/2016 dated 29/04/2016 passed by The Commissioner (Appeals), Customs & Central Excise, Lucknow.]

M/s Ribi Associates Appellant

Versus

CCE & ST, Allahabad Respondent

Appearance

Shri Nikhil Sarrof, C.A. – for the Appellant.

Shri Mohd. Altaf, Authorized Representative (DR) – for the Respondent.

CORAM: **Hon'ble Shri Ashok Jindal, Member (Judicial)**

Final Order No. 71061-71063/2017 Dated : 13/09/2017

Per. Ashok Jindal :-

The appellants are in appeal against the impugned order wherein demand of service tax has been confirmed against them.

2. The brief facts of the case are that the appellants were owner of one ancestral property and having a particular definite share in that property. The said property was demolished and a

building was constructed and the same was given on rent to a bank. The Bank paid the rent in individual names of all the co-owners of the property and also deducted TDS at applicable rates on account of Income Tax. The case of the Revenue is that as all the co-owners are jointly owner of the property, therefore, it is an association of person and they are liable to pay service tax as a whole. In these set of facts, the demand of service tax was confirmed against the appellant under the category of Renting of Immovable Property Service. Aggrieved from the said orders, the appellant is before me.

3. Heard the parties and considered the submissions.

4. Considering the fact that the payment of rent has been paid by the service recipient individually to all the co-owners of the property and TDS also being deducted. Admittedly, if the rent is being taken into account for individual persons, the rent received by them falls under threshold limit of exemption as per Notification 33/2012. As the rent received by the individuals falls within the threshold limit of exemption as per notification 33/2012, in that circumstances service tax is not payable by the appellant as association of person. Same view taken by this Tribunal in the case of **CCE & ST, Allahabad vs. Luxmi Chaurasia and others** vide final order No. 71204-71211 of 2016 dated 23/12/2016. In that circumstances, I hold that the demands against the appellant are not sustainable.

Ashok Jindal

5. In these terms, the impugned orders are set aside. Consequently, the appeals are allowed.

(Dictated and pronounced in open court.)

Sd/-

(Ashok Jindal)

Member(Judicial)

PK

प्रमाणित प्रति/Certified True Copy

28\09\2017

सहायक पंजीकार/Asstt. Registrar

सीमाशुल्क, 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