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/71019/2017-SM[BR] dated 11/09/2017

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/70919/2016	**Alliance Hospital** Prop.-dr. Shaheen Bano,r/o-c-20/1-73,ramkant Nagar,pisachmochan VARANASI UP 221001
		Name and Address of Respondent
2		C.C.E. & S.T.-Lucknow 7-A...ASHOK MARG, LUCKNOW, UTTAR PRADESH-226001

Copy To

3Advocate(s) / Consultant(s):

Arvind shukla advocate
b.1/6,d.i.g. colony,maqbool alam road,varanasi

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
Old Red Building, 38 M.G. Marg, Civil Lines, Allahabad – 211 001

COURT NO. II

DATE OF HEARING/DECISION : 11/09/2017.

Service Tax Appeal No. 70919 of 2016 (SM)

[Arising out of the Order-in-Appeal No. 448-449/ST/APPL-ALLD/LKO/2016 dated 08/07/2016 passed by The Commissioner (Appeals), Customs, Central Excise & Service Tax, Lucknow.]

M/s Alliance Hospital — Appellant

Versus

CCE & ST, Lucknow — Respondent

Appearance

Shri Asim Gafar, Advocate – for the Appellant.

Shri Gyanendra Tripathi, Authorized Representative (DR) – for the Respondent.

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

Final Order No. 71019/2017 Dated : 11/09/2017

Per. Ashok Jindal :-

The appellant is in appeal against the impugned order wherein demand of service tax has been confirmed against the appellant without considering their defence reply filed during the course of adjudication giving details that they have discharged duty liability for the period 1st July, 2010 to 30th April, 2011.

2. Heard the parties.

3. During the course of argument, learned Counsel for the appellant submits that at the time of adjudication, the appellant filed reply before the Adjudicating Authority who is stated that they will get fresh hearing notice as the Adjudicating Authority has to be transferred very shortly. After transfer of Adjudicating Authority, new Adjudicating Authority joined the office but without sending any notice of hearing and without considering the reply filed by the appellant, the Adjudicating Authority passed the adjudication order. The said order was challenged before the learned Commissioner (appeals) who without commenting on merits confirmed the demand and dropped the penalty against the appellant. Aggrieved from the said order, the appellant is before me and stated that the principle of natural justice has been violated, therefore, the impugned order is to be set aside.

4. Taking note of the submission made by the learned Counsel before me and on perusal of the record, I find that the appellant has given detailed reply to the show cause notice and also given the details of their service tax liability and amount of services provided which are to be taxable and as same has not been considered by the learned Commissioner (Appeals) in the impugned order.

5. In that circumstances, I hold that there is a gross violation of principle of natural justice. Therefore, the impugned order demanding service tax from the appellant is not sustainable, hence, the matter is remanded back to the Adjudicating Authority

for denovo adjudication after affording reasonable opportunity to the appellant to present their case and to consider all the reply filed by the appellant.

6. With these terms, the appeal is disposed of by way of remand.

(Dictated and pronounced in open court.)

Sd/-

(Ashok Jindal)

PK Member(Judicial)

प्रमाणित प्रति/Certified True Copy

27/09/17

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