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: 23/01/2018

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. ST/A/70248/2018-CU[DB] dated 18/01/2018

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/54/2012	**INDIAN COFFEE WORKERS CO-OPRATIVE SOCIETY LTD.** 592, MALVIYA NAGAR, JABALPUR. (M.P.)
		Name and Address of Respondent
2		-C.C.E Allahabad 38,M.G.Marg, civil Lines, Allahabad

Copy To

3Advocate(s) / Consultant(s):

Alok Barthwal,Adv
227-B&C BASNI TRADE CENTER,
581/5,M.G.ROAD,
INDORE,
MADHYA PRADESH

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/54/2012-CU[DB]

(Arising out of Order-in-Appeal No. 107-ST/ALLD/2011 dated 07/09/2011 passed by Commissioner of Central Excise (Appeals), Allahabad)

M/s Indian Coffee Workers Co-oprative Society Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Allahabad **Respondent**

Appearance:

Absent on call, for Appellant
Shri Mohammad Altaf, Assistant Commissioner (AR), for Respondent

CORAM:

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

Date of Hearing : 18/01/2018
Date of Decision : 18/01/2018

FINAL ORDER NO. 70248/2018......

Per: Ashok Jindal

The short issue involved in the matter is that whether the appellants are provided 'Out Door Catering Service' or not.

2. None appeared on behalf of the appellant nor there is any request for adjournment received by this Tribunal. On perusal of the records, we find that appeal can be disposed of on its merit, therefore, we are taken up the appeal for final disposal.

Ashok Jindal

3. The brief facts of the case are that as per the agreement between the appellant and M/s NTPC, the appellant has provided food items and snacks to the staff of M/s NTPC in their canteen and fix charges for each employees has been paid by M/s NTPC and canteen is also maintained by M/s NTPC and various catering to be used for providing the service has also been provided by NTPC. Revenue is of the view that the appellants were provided canteen services to M/s NTPC, therefore, they are liable to pay service tax under the category of 'Out Door Catering Services'. Accordingly, the impugned order was passed and demands were confirmed along with interest and penalties under the Finance Act, 1994. Aggrieved by the said order, appellant is before us.

4. Heard the learned A.R. for Revenue.

5. We find that an identical issue came up before this Tribunal in the case of Rajeev Kumar Gupta Vs CCE, Raipur reported in 2009 (16) STR 26 (Tribunal-Delhi) wherein the assessee was having the contract with Eicher Tractors and was engaged in the contract of serving food items in the canteen of Eicher Tractors and also the appellants have all the facilities within the canteen of Eicher Tractor including space for the canteen, Kitchen stores, Sleeping room, Lunch Room, Table, Stools and other fixtures and also electricity, gas were also provided by M/s Eicher Tractors. The assessee provided food items to the staff of Eicher Tractors. In said set

of facts this Tribunal hold that the said activity does not qualify as 'Out Door Catering Service' and therefore, set aside the demands.

6. As the facts of this case are identical to the case of Rajeev Kumar Gupta (supra). Therefore, we hold that the services provided by appellant do not fall under the category of 'Out Door Catering Service'. Accordingly, the demands are not sustainable.

7. It these terms, we set aside the impugned order and allow the appeal with consequential relief, if any.

(Dictated in Court)

Sd/-

Anil G. SHAKKARWAR

(MEMBER TECHNICAL)

Sd/-

ASHOK JINDAL

(MEMBER JUDICIAL)

akp

प्रमाणित प्रति/Certified True Copy
26/07/18
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