

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**  
**38, MG Marg Civil Lines, Old Red Building, Allahabad-211001**  
**Regional Branch, Allahabad**

Dated: 10/01/2018

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. ST/A/70136-70137/2018-CU[DB] dated 04/01/2018

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/787/2012  | <b>Bharat Sewa Sansthan</b><br>2, Rana Pratap Marg,<br>Lucknow(up)                 |
| 2           | ST/2820/2012 | <b>Rajendra Enterprises</b><br>1, Raghunath Nagar, M.g. Road,<br>Agra.             |
|             |              | Name and Address of<br>Respondent                                                  |
| 3           |              | C.C.E. & S.T.-Lucknow<br>7-A...ASHOK MARG,<br>LUCKNOW,<br>UTTAR PRADESH-226001     |
| 4           |              | C.C.E. & S.T.-Kanpur<br>117/7...SARVODYA NAGAR,<br>KANPUR,<br>UTTAR PRADESH-208005 |

Other Appellants and Respondents as per Annexure

Copy To

5 Advocate(s) / Consultant(s):

**ASHISH BANSAL**  
**ADVOCATE**  
**D-10, PRITHVIRAJ ROAD,**  
**ADARSH NAGAR, DELHI-33**

6 **Anil Singh Sisodia, Advocate,**  
**B-35, PRATAP NAGAR,**  
**AGRA,**  
**UTTAR PRADESH**  
**282010**

7 Bar Association, CESTAT, Allahabad

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

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

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

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

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

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

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

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

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

17 C.D.R.      18 Office Copy      19 Second Folder Copy      20 Guard File

  
Asstt. Registrar

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE  
TRIBUNAL  
REGIONAL BENCH : ALLAHABAD  
COURT No. I**

**APPEAL Nos. ST/787 & 2820/2012-CU[DB]**

(Arising out of Order-in-Appeal No. 159-ST/LKO/2012 dated 12/03/2012 passed by Commissioner (Appeals), Customs, Central Excise & Service Tax, Lucknow & Order-in-Appeal No. 199-ST/APPL/KNP/2012 dated 05/07/2012 passed by Commissioner (Appeals), Customs, Central Excise & Service Tax, Kanpur)

**M/s Bharat Sewa Sansthan &**  
(In Appeal No. ST/787/2012)

**M/s Rajendra Enterprises**  
(In Appeal No. ST/2820/2012)

**Appellant (s)**

**Vs.**

**Commissioner of Central Excise & Service Tax, Lucknow &  
Commissioner of Central Excise & Service Tax, Kanpur**      **Respondent (s)**

**Appearance:**

**Shri Ashish Bansal (Adv.) & Shri Amit Mahajan (Adv.)**  
(In Appeal No. ST/787/2012)

**Shri Anil Singh Sisodia (Advocate)**      **for Appellant (s)**  
(In Appeal No. ST/2820/2012)

**Shri Pawan Kumar Singh (Supdt.) AR**  
**Shri Gyanendra Kumar Tripathi (Asstt. Commr.) AR**      **for Respondent (s)**

**CORAM:**

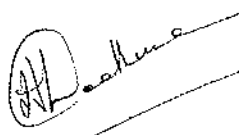
**Hon'ble Mrs. Archana Wadhwa, Member (Judicial)**  
**Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)**

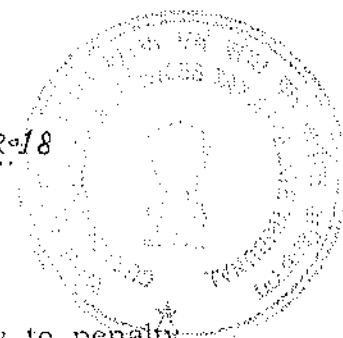
Date of Hearing : 04/01/2018  
Date of Decision : 04/01/2018

FINAL ORDER NOS. - 70136-70137/2018

**Per: Archana Wadhwa**

The challenge in both the appeals is only to penalty imposed under Section 76 of the Finance Act, 1994 on the ground that the appellant during the period April, 2009 to

  
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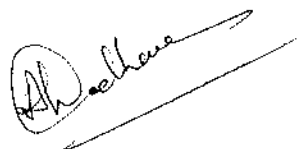
March, 2010 did not deposit the service tax under the category of "Renting of Immovable Property".

2. It is noted that there was some dispute going on about the taxability of 'Renting of Immovable Property' before various Courts. One such reference can be made to dispute before the Hon'ble High Court of Delhi in the cases of Home Solution Retail India Ltd. [2011 (24) S.T.R. 129 (Del.)].

3. Subsequently Section 80 was amended and a new provision of Section (2) was introduced laying down which is reproduced below:

*"(2) Notwithstanding anything contained in the provisions of Section 76 or Section 77 or Section 78, no penalty shall be imposable for failure to pay Service Tax payable, as on the 6<sup>th</sup> day of March, 2012, on the taxable services referred to in Sub-clause (zzzz) of clause (105) of Section 65, subject to the condition that the amount of Service Tax along with interest is paid in full within a period of six months from the date on which the Finance Bill, 2012 receives the assent of the President."*

4. In terms of the said Section, if the Service Tax along with interest stands paid within a period of six months from the date on which Finance Bill, 2012 received the assent of the President, no penalty shall be imposed on the assessee. The appellant in the present case has deposited the Service



Tax along with interest within the period of six months. As such the said provision is fully applicable to the facts of the present case. We also note that the Tribunal in the case reported as 2013 (32) S.T.R. 642 (Tri.-Ahmd.) under similar circumstances has set aside the penalty imposed upon the appellant under all the Sections of the Finance Act.

5. In view of the above, while confirming the demand of Service Tax and interest, as not contested by the appellant, we set aside the penalty imposed upon the appellant. Stay petition as also appeal get disposed of in above manner.

(Dictated & Pronounced in Court)

Sd/-  
Anil.G. Shakkarwar  
Member(Technical)

Sd/-  
(Archana Wadhawa)  
Member (Judicial)

Lks

प्रमाणित नकल  
True Copy  
22/02/18  
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