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

Other Appellants and Respondents as per Annexure

Copy To

5Advocate(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

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 6th 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)

प्रमाणित प्रति/Certified True Copy
12/02/18

Lks