

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: 28/02/2018

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. ST/A/70427/2018-CU[DB] dated 08/01/2018

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/1100/2011	BRIJ MOTORS (P) LTD. 609, VITH FLOOR, MARUTI PLAZA, BEHIND CENTRAL EXCISE DEPTT., SANJAY PLACE, AGRA. Name and Address of Respondent
2		-C.C.E. LUCKNOW 7-A, Ashok Marg, Lucknow.

Copy To

3 Advocate(s) / Consultant(s):

Shambhu Chopra (advocate)
609, VITH FLOOR, MARUTI
PLAZA,
BEHIND CENTRAL EXCISE
DEPTT, SANJAY PLACE,
AGRA,
UTTAR 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 ICAI 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/1100/2011-CU[DB]
(Arising out of Order-in-Appeal No. 123-ST/LKO/2011 dated 31/03/2011
passed by Commissioner of Central Excise, Service Tax & Customs
(Appeals), Lucknow)

M/s Brij Motors (P) Ltd.

Appellant

Vs.

Commissioner (Appeals) of Central Excise & Service Tax, Lucknow

Respondent

Appearance:

Shri Shambhu Chopra (Advocate)
Shri Mohd Altaf (Asstt. Commr.) AR

for Appellant
for Respondent

CORAM:

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

Date of Hearing : 08/01/2018
Date of Decision : 08/01/2018

FINAL ORDER NO. 79427/2018.....

Per: Archana Wadhwa



The appellant is authorized service station. The dispute in the appeal relates to as to whether the value of spare parts used for providing such services would form part of the assessable value of the services or not.

2. On going through impugned order of Commissioner (Appeals), we note that the dispute relates to the spare parts as also to consumables like lubricating oils and coolant etc.

Learned Advocate submits that the said order of the Commissioner (Appeals) was ex-parte order whereas the Original Adjudicating Authority has expressly stated that the sale tax or the VAT stands paid on the value of goods.

3. Learned AR also raises objection to the effect that though the appellant has taken stand that all the spare parts have discharged VAT but there is no documents produced on record. In rejoinder learned advocate submits that such documents were raised before the Original Adjudicating Authority who has not considered the same.

4. In view of the foregoing, we deem it fit to set aside the orders and remand the matter to the Original Adjudicating Authority for fresh decision in the light of the various precedent decisions of the Tribunal, upon which the appellant may choose to rely upon and after verifying and examining the documentary evidences. Appeal is thus allowed by way of remand.

(Dictated and pronounced in Court)

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

Ankit

Sd/-
(Archana Wadhawa)
Member (Judicial)

प्रमाणित प्रति/Certified True Copy
18/03/18
सहायक पंजीयन/Asstt. Registrar
सीमांक, उत्पादक एवं सेवा कर
अपराध प्रधिकरण(C.E.S.T.A.T.)
एच. ए. सी. मार्ग, बल्लभपुर-211001
ए. ए. सी. बाल्लभपुर-211001

