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: 22/01/2018

To

Appellant as per address in table below
Respondent as per address in table below

Final Order No. ST/A/70247/2018-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/1279/2011	**Commissioner of CUSTOMS-Kanpur** 117/7...SARVODYA NAGAR, KANPUR, UTTAR PRADESH 208005
		Name and Address of Respondent
2		LML Limited C-10,Panki Industrial Estate,Site-ii,, KANPUR ,UP

Copy To
3Advocate(s) / Consultant(s):

R. Santhanam
C-3/210,
JANAK PURI,
NEW DELHI,
DELHI
110058

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/1279/2011-CU[DB]

(Arising out of Order-in-Original No. 12-ST/Commissioner/2011 dated 29/04/2011 passed by Commissioner of Central Excise & Customs, Kanpur)

Commissioner of Central Excise & S.T., Kanpur **Appellant**

Vs.

M/s LML Ltd. **Respondent**

Appearance:

Shri Mohammad Altaf, Assistant Commissioner (AR) for Appellant
Shri R. Santhanam, Advocate, 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.-70247/2018..

Per: Ashok Jindal

Revenue is in appeal against the order dated 29.04.2011.

2. The brief facts of the case are that the respondent paid royalty to foreign based companies who provided 'Intellectual Property Services' in relation to technical know-how and designs layouts during the period from 10th September, 2004 to 31st March, 2006. Revenue is of the view that as the said service is a taxable service w.e.f. 10.09.2004 under Section 65 (55bb) of the Finance Act, 1994. Therefore, respondents are liable to pay service tax under Reverse Charge Mechanism in

terms of Rule 2(1)(d)(iv) of the Service Tax Rules issued under Section 68 of the Finance Act, 1994. The authorities bellow dropped the show cause notice relying on the decision of the Hon'ble High Court of Bombay in the case of M/s Indian National Ship Owners Association Vs Union of India & Others reported in 2009 (13) STR 235 (Bombay) which has been affirmed by the Hon'ble Apex Court. Thereafter, a Circular No.275/7/2010-CE dated 30th June, 2010 was also issued. Against the said order, revenue is in appeal before us.

3. Heard the parties and considered the submissions.

4. Considering the facts that the issue has attained the finality in the case of M/s Indian Nation Ship Owners Association (supra) wherein the Hon'ble High Court have held that prior to 18.04.2006 the service recipient in India is not required to pay service tax under Reverse Charge Mechanism for the services received from outside India.

5. In that term, we do not find any infirmity in the impugned order and the same is upheld.

6. In result, the appeal filed by revenue is dismissed.

(Dictated in Court)

Sd/-

Anil G. SHAKKARWAR

(MEMBER TECHNICAL)

Sd/-

ASHOK JINDAL

(MEMBER JUDICIAL)

akp

प्रमाणित प्रति/Certified True Copy
26/02/18
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