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: 18/01/2018

To

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

Final Order No. ST/A/70182/2018-CU[DB] dated 15/01/2018

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/1360/2011	**MANGAT RAM CHAUHAN,** VILL. MEHDAUNA (BHARI), P.O. BARUN BAZAR, FAIZABAD (U.P.)
		Name and Address of Respondent
2		-C.C.E Allahabad 38,M.G.Marg, civil Lines, Allahabad

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

Kartikeya Narain
c/o S.C.Kamra & co,Advocates & Solicitors,21 b/1/17,tashkand Marg,Civil Lines,Allahabad,U.P.

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/1360/2011-CU[DB]

(Arising out of Order-in-Appeal No. 73/ST/ALLD/2010 dated 15/06/2011 passed by Commissioner of Central Excise & Customs (Appeals), Allahabad)

Mangat Ram Chauhan — **Appellant**

Vs.

Commissioner of Central Excise, Allahabad — **Respondent**

Appearance:

Shri Kartikeya Narain (Advocate) — for Appellant
Shri Mohd Altaf (Asstt. Commr.) AR — for Respondent

CORAM:

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

Date of Hearing : 15/01/2018
Date of Decision : 15/01/2018

FINAL ORDER NO. 70182/2018

Per: Ashok Jindal

The appellant is in appeal against impugned order wherein the service tax has been demanded under the category of 'Business Auxiliary Services'.

2. The brief facts of the case are that the appellant is engaged in providing Business Auxiliary Services to M/s Fashion Suitings (P) Ltd., Bhilwara. (M/s FSI) under their scheme 'Right Concept Marketing', and admitted to have received commission amounting to Rs.14,88,200/-, during the period from 10.08.2004 to 31.03.2007 as the appellant

did not get registered themselves in the Service Tax Department and did not pay service tax, therefore, service tax was demanded under the category of Business Auxiliary Service by issuance of show cause notice dated 14th May, 2008 by invoking the extended period of limitation.

3. Heard the parties considering the fact that on identical issue the matter came up before this Tribunal in the case of Smt. Seema Verma wherein vide Final Order No. 71250/2017 dated 28.09.2017, this Tribunal held that on merits the assessee is required to pay service tax under the category of Business Auxiliary Services but it was found that extended period is not invokable as Revenue has failed to establish that there was any fraud, collusion, mis-statement or suppression of fact, etc., on the part of the appellant. Admittedly, in this case also, the Revenue has failed to establish that the appellant did not pay service tax by way of fraud, collusion, willful mis-statment or suppression of fact etc. In that circumstances, we hold that extended period of limitation is not invokable. Therefore, on limitation, the appeal succeeds, therefore, the impugned order set aside and the appeal is allowed.

(Dictated and pronounced in Court)

Sd/-

Anil G. SHAKKARWAR

(MEMBER TECHNICAL)

Sd/-

ASHOK JINDAL

(MEMBER JUDICIAL)

Ankit

प्रमाणित प्रतिलिपि/Certified True Copy
16/02/18
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