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: 06/03/2018

To

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

Final Order No. ST/A/70461/2018-CU[DB] dated 10/01/2018

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/1570/2011	**Bajaj Hindustan Ltd** Unit-thana Bhawan, Shamli MUZAFFARNAGAR U.P.
		Name and Address of Respondent
2		C.C.E. & S.T.-Meerut-i EXCISE CHOWK...UNIVERSITY ROAD,MANGAL PANDEY NAGAR, MEERUT, UTTAR PRADESH-250005

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

**MS. STUTI SAGGI.
ADVOCATES(ALLD)
102, MAHALAXMI ENCLAVE (ADJ. INCOME TAX OFFICE), STANLEY ROAD, CIVIL LINES, ALLAHABAD (U.P.)-211001**

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/1570/2011-CU[DB]

(Arising out of Order-in-Original No. 21/Commr./MRT-I/2011 dated 28/07/2011 passed by Commissioner of Central Excise & Customs, Meerut-I)

M/s Bajaj Hindusthan Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Meerut-I **Respondent**

Appearance:

Ms. Stuti Saggi, Advocate, for Appellant
Shri Pradeep Kumar Dubey, Superintendent (AR), for Respondent

CORAM:

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

Date of Hearing & Date of Decision : 10/01/2018

FINAL ORDER NO...70461/2018......

Per: Anil G. Shakkarwar

The short point is to be decided in the present appeal is, whether the Service Tax paid service of construction of dormitory/residence for factory staff, Service Tax paid on Pandal & Shamiyana & Tour Operator Service, was admissible for availment of Cenvat credit as input service credit to the appellant.

2. The brief facts of the case are that the appellants having their Unit at Thanabhawan, Shamli were engaged in the manufacture of Sugar & Molasses. During the period from

2004-05 to 2008-09, they utilized above stated services. Revenue entertained a view that the said services were not eligible for input service credit.

3. Heard both the parties. Learned Counsel for the appellant has submitted that the issue related to Service Tax paid on construction service on construction of dormitory/residence for factory staff, is no more *res-integra* in view of this Tribunal's decision Final Order No. A/71086/20017-EX[DB] dated 04/09/2017 in appellant's own case of another Unit at Gangnauli, Deoband, District – Saharanpur and submitted that it was held in the said Final Order that Cenvat credit of Service Tax paid on construction of rest rooms and construction of dormitory for staff, was admissible and that they are settled issues and therefore said Cenvat credit was admissible. Learned Counsel, further, submitted that admissibility of Cenvat credit of Service Tax paid on Tour Operator Service which is used for bringing the staff/workers to the factory has been settled through Final Order No. ST/451/2011(PB) passed by this Tribunal in the case of C. J. Gelatine Products Ltd. *Versus* Commissioner of Central Excise, Bhopal reported at 2012 (25) S.T.R. 109 (Tri. – Delhi). Shri Pradeep Kumar Deuby – Superintendent (AR) for Revenue supported the impugned Order-in-Original dated 28/07/2011 through which Cenvat credit of Rs.53,33,591/- was denied.

4. Having considered the rival contentions and on perusal of the facts on record, we find that Pandal & Shamiyana was used by seasonal staff of the Sugar Mill during crushing season and the said use was purely for business purpose. Therefore, the said input service was used in relation to the manufacture of final product. We, further, find that the issues related to Cenvat credit of Service Tax paid on construction service on construction of dormitory/residence for factory staff, is settled through above stated Final Order dated 04/09/2017 and issues related to admissibility of Cenvat credit on Tour Operator Service is settled through above stated Final Order No. ST/451/2011(PB) in the case of C. J. Gelatine Products Ltd. *Versus* Commissioner of Central Excise, Bhopal (supra). In view of the same, we do not find any merits in the impugned Order-in-Original dated 28/07/2011 passed by Commissioner. We, therefore, set aside the impugned Order-in-Original and allow the appeal.

(Dictated in Court)

Sd/-
(Archana Wadhawa)
Member (Judicial)

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

प्रमाणित प्रति/Certified True Copy
14/03/18
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

Ansari