

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38, MG Marg Civil Lines, Old Red Building, Allahabad-211001
Regional Branch, Allahabad

Dated: 09/01/2018

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. ST/A/70132/2018-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/1713/2012	Everest Insulations Pvt Ltd 35, Prakash Talkies Market, Muzaffarnagar(uip)251001 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):

SHIV KUMAR GAUTAM
REPRESENTATIVE
35, PRAKASH TALKIES
MARKET, MUZAFFARNAGAR,
U.P.-251001

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), Vaithyanram 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/1713/2012-CU[DB]

(Arising out of Order-in-Appeal No. 26-ST/MRT-I/2012 dated 22/03/2012
passed by Commissioner of Central Excise & Customs (Appeals), Meerut-
I)

M/s Everest Insulations Pvt. Ltd.

Appellant

Vs.

Commissioner of Central Excise, Meerut-I

Respondent

Appearance:

Shri Shiv Kumar Gautam, Representative
Shri Pawan Kumar Singh, Supdt (AR),

for Appellant
for Respondent

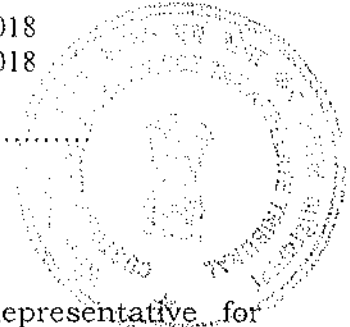
CORAM:

Hon'ble Smt. 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 NO. 710/32/2018

Per: Anil G. Shakkarwar



Heard Shri Shiv Kumar Gartam, Representative for
appellant and Shri Pawan Kumar Singh, Supdt (AR) for
revenue and perused the records.

2. On perusal of records, we find that show cause notice
dated 05.03.2010 was issued to the appellant which
ultimately culminated into passing of the impugned Order-in-
Appeal wherein the demand of service tax of Rs.1,47,525/-
stands confirmed against the appellant and also imposition of

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penalty of equal amount was upheld. On scrutiny of said show cause notice ^{it} reveals that the show cause notice did not point out the activity undertaken by the appellant and also did not establish how such activity was classifiable under Repair and Maintenance Service. Revenue went ahead with the presumption that appellant had provided taxable service under Repair and Maintenance Service. It was responsibility of revenue to first deliberate on the fact about the activity undertaken by the appellant and examine how the said activity was taxable and where it was classifiable. Such vital aspects are missing in the show cause notice. Therefore, the said show cause notice dated 05.03.2010 is not sustainable.

3. Therefore, we set aside the impugned Order-in-Appeal and allow the appeal filed by the appellant. We direct revenue that appellant shall be provided with consequential relief within a period of 90 days from the date of receipt of a copy of this order.

4. Accordingly, appeal is allowed in above terms.

(Dictated in Court)

Sd/-
(Archana Wadhawa)
Member (Judicial)

akp

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

प्रमाणित प्रति/Certified True Copy

12/02/18
राजस्थान न्यायालय, जयपुर
सीएमओ, जयपुर
अपील नं. 57/1713/2012-सीएमओ
29, कोर्टघर, सुप्रीम-211001
501 001, जयपुर-211001

