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/70407/2018-CU[DB] dated 13/02/2018

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/CROSS/57116/2013	ST/1799/2011	C.C.E & S.TAX, KANPUR 117/7, Sarvodaya Nagar, Kanpur 208005.
		Name and Address of Respondent
2		HARSH PUBLICITY Raja Purwa, In front of Ambedkar Park, Kanpur.,,

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

Dharmendra Srivastava &
Associates, C.A
13/392(i) Civil Lines,Kanpur,
UttarPradesh
KANPUR,
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 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
CROSS Application No. ST/CROSS/57116/2013 in
APPEAL No. ST/1799/2011-CU[DB]

(Arising out of Order-in-Appeal No. 230/ST/APPL/KNP/2011 dated 10/10/2011 passed by Commissioner of Central Excise & Customs (Appeals), Kanpur)

The Commissioner, Central Excise And Service Tax, Kanpur

Appellant

Vs.

M/s Harsh Publicity **Respondent**

Appearance:

Shri Rajeev Ranjan (Joint Commr.) AR for Appellant
Shri Dharmendra Srivastava (CA) for Respondent

CORAM:

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

Date of Hearing : 13/02/2018
Date of Decision : 13/02/2018

FINAL ORDER NO. 70407/2018

Per: Anil Choudhary

The issue in this appeal is whether the respondent assessee is liable to pay service tax as an advertising agency in absence of any work done by them in the nature of designing, visualising, conceptualising etc.

2. Heard the parties. The admitted facts as per the orders of the court below are that the appellant is doing the work of display of hoardings and flex prints. They get the design etc., from the client and only engaged in printing of the flex sheet

and mounting the same on the advertisement display board and putting up the same at the site. It has been recorded in the finding portion of the Order-in-Original that the respondent-assessee is not engaged in designing, visualising and conceptualizing of advertisement. They are engaged in display and exhibition of advertisements. As such duty was demanded vide Order-in-Original alongwith penalties under Sections 76 and 77 as well as 78 of the Act. Being aggrieved the assessee preferred appeal before Commissioner (Appeals) who vide the impugned order following the ruling of Hon'ble Madras High Court in the case of Board of Control for Cricket in India vs. Commissioner 2007 (007) STR 0384 (Tribunal) where it is clarified that – *what is being taxed is planning and expertise involved in making, preparing, displaying or exhibiting the advertisement and not simply installing the printed advertising material at a place or space provided to the person printing the advertising material. The expression "display" or "exhibit" does not mean the physical act of display and exhibit, but relates to the services rendered, as an expert body, to the client, for the purposes of display of exhibit.* Accordingly, under the admitted facts that the respondent assessee was not involved in designing, visualizing, conceptualising etc., of the advertisement, the Order-in-Original was set aside holding that the service itself is not taxable.

3. Being aggrieved the Revenue is in appeal on the ground that the learned Commissioner (Appeals) have erred in relying on the ruling of Hon'ble Madras High Court wherein reliance was placed on the Circular No. 345/4/97/TRU dated 16 August, 1999, as the Circular has been withdrawn vide Master Circular dated 23 August, 2007.

4. Having considered the rival submissions we find that the aforementioned ground of Revenue is without any merit as the TRU Circulars were not withdrawn which were explaining the applicability and the scope of the legal provisions. Only the Circular relating to certain deductions/abatement etc., allowable under various earlier circulars were consolidated and stood withdrawn by the Master Circular dated 23 August, 2007. In this view of the matter we find no merits in this appeal filed by Revenue and the same is dismissed. The respondent shall be entitled to consequential benefits in accordance with law. Cross objection also stands disposed of.

(Dictated and pronounced in Court)

-Sd/-
(ANIL G. SHAKKARWAR)
Member (TECHNICAL)

-Sd/-
(ANIL CHOUDHARY)
Member(JUDICIAL)

Ankit

प्रमाणित प्रति/Certified True Copy
13/03/18

38, एम. जी. मार्ग, इलाहाबाद-211001
8, M. G. MARG, ALLAHABAD-211001