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/70426/2018-CU[DB] dated 21/02/2018

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/2034/2012	**Apex Enterprises** G-3,chinhat Industrial Area, Lucknow.
		Name and Address of Respondent
2		C.C.E. & S.T.-Lucknow 7-A...ASHOK MARG, LUCKNOW, UTTAR PRADESH-226001

Copy To

3Advocate(s) / Consultant(s):

Atul Gupta & Utkarsh Malviya
(Advocates), ALD
3/1A/3 OPP AUTO
SALES,Above the Office Of
Blue Dart/DHL Courier,
COLVIN ROAD, LOHIA
MARG ALLAHABAD-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/2034/2012-CU[DB]

(Arising out of Order-in-Appeal No. 162-ST/LKO/2012 dated 19/03/2012 passed by Commissioner of Central Excise & Service Tax (Appeals), Lucknow)

M/s Apex Enterprises **Appellant**

Vs.

Commissioner of Central Excise& S.T., Lucknow **Respondent**

Appearance:

Shri Atul Gupta & Shri Utkarsh Malviya, Advocates for Appellant
Shri Mohammad Altaf, Assistant Commissioner (AR), for Respondent

CORAM:

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

Date of Hearing : 21/02/2018
Date of Decision : 21/02/2018

FINAL ORDER NO. 70426/2018

Per: Anil Choudhary

The issue in this appeal is whether the show cause notice dated 29.06.2007 for the period from 25th November, 2003 to 09th September, 2004 have been rightly issued or not to the manufacturer.

2. The brief facts of the case are that the appellants were registered assessee under the category of Maintenance and Repair Services. During the scrutiny of the records in July, 2006 by the Departmental officers it was noticed that they did not discharge proper service tax liability, as they have not included the amount of fix charges of dismantling of core part

and transportation of core part. The appellant had paid service tax on the repair charges on core part. It appeared to revenue that the appellant was liable to pay service tax on the said amount received for dismantling and transportation of core parts.

3. Heard the parties.

4. Considering the submissions made by both sides and upon going through the show cause notice, we find that there is no allegation of any concealment, suppression or any contumacious conduct on the part of appellant. Further, we find that the issue is holy interpretational and relates to interpretation of tax liability. It is admitted fact that the appellant was paying service tax and in absence of any allegation of contumacious conduct or suppression of facts etc. the extended period of limitation are not invocable. Further, we find that the extended period of limitation has not invoked in the show cause notice. Accordingly, we hold that the show cause notice is not maintainable. Consequently, we set aside the impugned order and allow the appeal.

(Dictated in Court)

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

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

प्रमाणित प्रति/Certified True Copy
13/03/18

ukp

सहायक रजिस्ट्रार/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