FAX : 011-26108426

REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK NO.2, R.K.PURAM, NEW DELHI-110066
CUSTOMS APPEAL BRANCH

Dated: 29/04/2015

To

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

Final Order No. **ST/A/51388/2015-CU[DB]** dated **09/04/2015**

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(CUSTOMS Appeal Branch)

Application	Appeal	Name and Address of Appellant
1	ST/296/2009	**ALFA AUTO INDUSTRIES (P) LTD.** VILL. MALIKPUR, P.O. AHMEDGARH, DISTT. SANGRUR.
		Name and Address of Respondent
2		-C.C.E. LUDHIANA Central Excise House, F - Block, Rishi Nagar, Ludhiana 141001 (Punjab)

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

Jagmohan Bansal
2307/1, SECTOR-38 - C,
CHANDIGARH

4 Additional Party's Name & Address :

5 Bar Association, CESTAT, Delhi

6 Director Publications, Customs, Excise. I.P. Estate, Delhi

7 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

8 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

9 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

10 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15

11 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

12 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

13 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

14 C.D.R. 15 Office Copy 16 Guard File

Asstt. Registrar(CUSTOMS Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. I

Date of hearing/decision: 09.04.2015

For Approval and Signature:

Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. R. K. Singh, Member (Technical)

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 26 of the CESTAT (Procedure) Rules, 1982?	
2	Whether it should be released under Rule 26 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3	Whether their Lordships wish to see the fair copy of the Order?	
4	Whether Order is to be circulated to the Departmental authorities?	

Service Tax Appeal No. 296 of 2009

(Arising out of order in appeal No. 19/CE/LDH/2009 dated 30.01.2009 passed by the Commissioner of Central Excise (Appeals), Chandigarh).

M/s Alfa Auto Industries (P) Ltd. — Appellant

Vs.

CCE, Ludhiana — Respondent

Appearance:

None for the appellant
Shri Mani Ram Sharma, DR for the Respondent

Coram: Hon'ble Mr. Justice G. Raghuram, President
Hon'ble Mr. R. K. Singh, Member (Technical)

Final Order No. 51388/2015

Per: R. K. Singh:

Appeal has been filed against order in appeal No. 19/CE/LDH/2009 dated 30.01.2009 passed by the Commissioner of Central Excise (Appeals), Chandigarh in terms of which service tax demand of Rs. 1,08,655/- alongwith interest and penalties under Sections 76 and 77 of Finance Act 1994 was upheld.

2. The facts in brief are as under:

During the scrutiny of records of the appellants it was observed that during the period 2005-06 they received Rs. 11,73,900/- on account of repair of old machines which was covered under the category of maintenance and repair service. They never disclosed this fact and never reflected it in their service tax returns. While the primary adjudicating authority confirmed the demand of Rs. 1,19,738/- invoking the extended period, the appellant authority allowed the cum tax benefit and reduced the demand to Rs.1,08,655/-.

3. In the grounds of appeal the appellants have contended that there was no suppression on their part. They were duly registered and submitted their returns and they were not aware that there was service tax liability on such repair work.

4. No one appeared at the time of personal hearing and therefore the appeal is being disposed of on merit on the basis of evidence on record.

5. It is seen that the appellate authority duly extended the cum-tax benefit. The repair work done by the appellant is clearly covered under the maintenance or repair service as defined during the relevant period

in Section 65(64) of Finance Act, 1994. The appellants have not given any basis as to how they inferred that they were not covered under Maintenance or Repair Service when its definition in Section 65(64)) ibid hardly leaves any scope for such inference on the part of the appellants. The appellants were registered for GTA services under Section 69 of Finance Act, 1994 but did not show the figures relating to the impugned service in their ST-3 returns nor registered under Maintenance or Repair Service. Having already taken registration under GTA Service, they were familiar with the Service Tax provisions. Thus, the Commissioner (Appeals) has rightly held that extended period is invocable in this case.

6. In the light of the foregoing, we do not find any infirmity in the impugned order. The appeal is dismissed.

(Justice G. Raghuram)
President

(R. K. Singh)
Member (Technical)

Pant