

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: 23/02/2018

To-

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

Final Order No. ST/A/70379/2018-CU[DBI] dated 25/01/2018

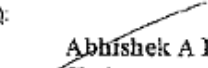
I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.

  
Asstt. Registrar

Application	Appeal	Name and Address of Appellant	Name and Address of Respondent
1	ST/70453/2017	<b>Bharat Petroleum Corporation Limited</b> 6th Floor, a-5&6, sector-1, udhyog Marg NOIDA UP	
2			C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307

Copy To

3 Advocate(s) / Consultant(s):

  
**Abhishek A Rastogi, & Ankit A Shah (Advocates)**  
ONE INDIABULLS  
CENTRE, TOWER 1, 841  
SENAPATI BAPAT  
MARG, MUMBAI-400013

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/70453/2017-CU[DB]

(Arising out of Order-in-Original No. 35/Commissioner/Noida/2016-17  
dated 31/03/2017 passed by Commissioner of Service Tax, Noida)

M/s Bharat Petroleum Corporation Ltd.

Appellant

Vs.

Commissioner of Service Tax, Noida

Respondent

Appearance:

Shri Abhishck A. Rastogi & Shri Ankit A. Shah, Advocates for Appellant  
Shri Gyanendra Kr. Tripathi, Asstt. Commissioner (AR), for Respondent

CORAM:

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

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

Date of Hearing : 25/01/2018

Date of Decision : 25/01/2018

FINAL ORDER NO- 70379/2018

Per: Anil G. Shakkarwar

The present appeal is directed against Order-in-Original No. 35/Commissioner/Noida/2016-17 dated 31/03/2017 passed by Commissioner of Service Tax, Noida.

2. The brief facts of the case are that the appellants were having Centralized Service Tax Registration at Noida. They are dealing with supply of petroleum products. They were issued with a show cause notice dated 13.04.2016 wherein it was alleged that during the period from April, 2011 to September, 2014 the services received by them in respect of

GTA service in the state of Jammu & Kashmir, was not reflected in the relevant ST-3 return separately by them, presuming that the said services were not liable to be taxed in their hand, since the state of Jammu & Kashmir was excluded for the purpose of service tax in the Finance Act, 1994. Revenue entertained a view that the said services were received by the appellant in the state of Jammu and Kashmir and as per Reverse Charge Mechanism appellant should have paid service Tax amounting to Rs. 2,47,95,302/-. Therefore, there was proposal to recover said amount of service tax with other proposals of interest and penalty. The issue was adjudicated through the impugned Order-in-Original dated 31.03.2014 wherein the demand was confirmed and equal penalty was imposed. Aggrieved by the said order, appellants have preferred present appeal before this Tribunal.

3. The Learned Counsel for the appellant has submitted that appellant's J & K unit is recipient of GTA Services and services were also provided within the state of Jammu & Kashmir. Therefore, as per Section 64 of Finance Act, 1994 service tax cannot be levied on services rendered in Jammu & Kashmir, since the activity of services is not covered by Chapter No. V of the Finance Act, 1994 and that no provisions of act on service tax was applicable to services provided in Jammu & Kashmir.

4. Heard the learned A.R. for Revenue. He contended that recipient of service is liable to pay service tax under Reverse Charge Mechanism and therefore, appellants were liable to pay service tax.

5. Having considered the rival contentions and on perusal of provisions of the Act and facts on records, we find that provisions of service within the state of Jammu & Kashmir is beyond scope of Chapter No. V of the Finance Act, 1994. Therefore, no provision related to Service Tax Law is presently applicable to services rendered in the state of Jammu & Kashmir.

6. Therefore, we allow the appeal filed by the appellant by setting aside the impugned Order-in-Original. Appellant shall be entitled for consequential relief, as per law.

(Dictated in Court)

-Sd/-

(ANIL CHOUDHARY)  
Member (JUDICIAL)

akp

-Sd/-

(ANIL G. SHAKKARWAR)  
Member (TECHNICAL)

प्रमाणित प्रति/Certified True Copy

13/03/18  
सहायक रजिस्ट्रार/Asstt. Registrar  
सीआरएल, उत्तराखण्ड एवं सेवा कर  
अधीन अविभाज्य (C.E.S.T.A.T.)  
38, एम.जी.मार्ग, इलाहाबाद-211001  
38, M. G. MARG, ALLAHABAD-211001