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: 06/04/2018

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70724-70725/2018-EX[DB] dated 05/04/2018

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the **Central Excise and Salt Act, 1944.**

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/1984/2010	**KUNJ FORGINGS PVT. LTD.** C-117, BULANDSHAHAR ROAD, INDUSTRIAL AREA, GHAZIABAD.
2	E/1985/2010	**SHRI BRIJESH KUMAR AGARWAL, DIRECTOR OF** M/S KUNJ FORGINGS PVT. LTD. , C-117, BULANDSHAHAR ROAD, INDUSTRIAL AREA, GHAZIABAD.
		Name and Address of Respondent
3		-C.C.E. GHAZIABAD C.G. O. Complex-II, Kamla Nehru Nagar, Ghaziabad 201302
4		-C.C.E. GHAZIABAD C.G. O. Complex-II, Kamla Nehru Nagar, Ghaziabad 201302

Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s):

Kamaljeet Singh
J-144, PATEL NAGAR -I,
GHAZIABAD,
UTTAR PRADESH

6 Bar Association, CESTAT, Allahabad

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

8 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3

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

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

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 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

15 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com).FF-19,1st Floor,Cross River Mall.CBD Ground,Near Karkardooma Court,Delhi-110032

16 C.D.R. 17 Office Copy 18 Second Folder Copy 19 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. 1

APPEAL Nos.E/1984 & 1985/2010-EX[DB]

(Arising out of Order-in-Original No. 61/COMMISSIONER/GZB/2009 dated 24/12/2009 passed by Commissioner of Customs, Central Excise & Service Tax, Ghaziabad)

M/s Kunj Forgings Pvt. Ltd. &

Shri Brijesh Kumar Agarwal, Director Of — **Appellants**

Vs

Commissioner of Central Excise, Ghaziabad — **Respondent**

Appearance:

Shri Kamal Jeet Singh, Advocate — for Appellant
Shri Rajeev Ranjan, Joint Commissioner (AR), — for Respondent

CORAM:

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

Date of Hearing : 11/12/2017
Date of Pronouncement : 05/4/2018

FINAL ORDER NOs-70724-70725/2018

Per: Anil Choudhary

The present appeals are filed by the appellant on the following issues:-

(i) Whether the company appellant have evaded Central Excise duty of Rs.1,92,30,754/- with Cess on the alleged suppressed production, which was alleged to be removed in the garb of excess waste and scrap during the period from 2004-05 to 2006-07.

(ii) Whether an amount of Rs.5,60,470/- alleged to be Cenvat credit wrongly taken, is recoverable.

(iii) Whether the appellant's company is liable to be proceeded against in accordance with Rule 25 of Central Excise Rules read with Section 11AC of the Act and further imposition of penalty under Rule 15 (2) of CCR, 2004.

(iv) Whether the appellant's director Shri Brijesh Kumar Agarwal is liable to penalty and under Rule 26 of Central Excise Rules, 2002 read with Rule 15 (1) of Cenvat Credit Rules, 2004.

2. The brief facts of the case are that the appellants are engaged in the manufacture of forged products of Carbon Steel, Alloy Steel and Stainless Steel falling under Chapter 73 of first Schedule to the Central Excise Tariff Act, 1985. A major portion of the production of 'flanges' is exported. The appellant also gets some process done on job work basis. Though the appellant have the facility for cutting and manufacturing of rough forgings, machined forgings and flanges, but due to insufficient capacity, raw material is also sent to various job workers for carrying out different processes like cutting of rough material, manufacture of rough forgings and rough machining. All goods are sent to job workers under cover of job work challan. Different job workers carry out different processes. On 12th May, 2006

there was a search or inspection in the manufacturing premises of the appellant, the residential premises of its director, (Shri B.K. Agarwal), the premises of five raw material suppliers and the job workers of the appellants. In the course of physical verification in the factory of the appellant, the officers allegedly noticed some shortages in the stock of raw material, scrap and finished goods, involving Central Excise duty of Rs.12,20,388+cess. The director of the appellant Shri Brijesh Kumar allegedly admitted the shortage and deposited the sum of Rs.8 lakhs vide TR-6 challan dated 29.05.2006 and Rs.4,20,388/- vide another TR-6 challan dated 05.07.2006 and Rs.24,408/- vide another TR-6 challan dated 19.01.2008. Mr. Brijesh Kumar Agarwal further stated that the shortages may be due to various reasons. Further, statement of Mr. Brijesh Kumar Agarwal was recorded on 14th June, 2006 wherein he explained the process of manufacture. He, inter-alia, stated that approximately 52% scrap is generated in the course of carrying out all the processes. Further, statement of Mr. Brijesh Kumar Agarwal was recorded on 31/01/2008 wherein he stated, inter-alia, that scrap generated during the period 2003-04 was 43.25%, during 2004-05 was 39.59% and during 2005–06 was 47.61% of the inputs consumed. Further, he stated that generation of scrap depends upon the type of product to be manufactured and the type of inputs used. Further, out of the resumed record was a register at Sl. No.55, wherein pages 1 to 52 was written for the period from 09.12.2004 to 19.01.2006. However, entries for the period from 9th March, 2005 to 12th April, 2005 were not recorded. This register (Private record) contains particulars of issue of raw materials for cutting and rough forgings, for further processing by job workers. On scrutiny of the said register, it appeared that on three dates (20/09/2005, 21/09/2005 and 27/09/2005) the entries contained remarks "without paper (bill)" "without Bill" and "RINL to RKG". It further appeared that certain dates on which the processed goods were shown to have been received from the job workers, as reflected in the job work register, were not reflected in the said register no.55 and in some cases, the quantity of goods received from a specific job worker, was shown in the two registers, which were different.

3. Statement of Shri Suresh Sharma was recorded on 27.12.2007, who looked after the work relating to accounting of goods sent to job workers. He stated, inter-alia, that the said register no.55 was maintained by him for his convenience. He was making entries after verifying actual receipt and dispatch of goods. On being asked about the discrepancies between the said register and the job work register, he stated that the entries in the job work

register were being made by the excise people. He also stated that he was preparing the job challans for sending material to job workers. In his further statement dated 31.12.2007 Shri Sharma stated that as regards the entries for 20, 21 and 27/09/2005, he did not get any excise documents from the Excise Department in respect of such dispatches. Therefore, he had mentioned the said remarks himself against the respective entries. Further, register at Sl.No.64 (Private record) resumed from the factory premises, bearing the heading "Forging R.G.P." and contains entries for the period from 17.11.2005 to 23.01.2006. The said register was compared with the job work register and the registers at Sl. No.55. The dispatch particulars in the job work register were found tallying with the particulars in the said two registers. Some discrepancies in the dates of receipt of material were noticed in a few stray cases and in some cases, the weight of the goods received back was apparently different. On the basis of these few stray cases of discrepancies between the job worker register, registers at no.55 and 64, it appeared to revenue, as alleged in the SCN, that since the three registers do not tally as far as receipt of goods, after job work, this alone appears to indicate that there could be situations where the goods were issued/sent for job work but not received back and that the goods shown as received in job work register, but not reflected as received in register no.64/55, were actually not received.

4. Further, Shri Brijesh Agarwal in his statement had stated that about 52% scrap is generated. Shri C.P. Pathak, GM (commercial) of the appellant company had stated that scrap generation is about 46.52 Kg and burning loss is about 4.75 Kg. The scrap generation and burning loss was also verified in past by the Assistant Commissioner in the year 2002 for fixing the input/output norms for production of goods for export. The Assistant Commissioner had found that 46.98% of flanges were manufactured and scrap 45.70% was generated while the burning loss was 7.32%. The report of the Assistant Commissioner had been accepted to be correct position even in the show cause notice. The job work register of the appellant was analysed by the officers for the disputed period and the scrap generation and burning loss have been found to be approximately the same, as disclosed by Shri Pathak in his statement.

5. Show cause notice dated 30th May, 2008 was issued, alleging that in the case of in-house production of forgings, the appellant has shown excess production of scrap and excess burning loss. Similarly, in the case of forgings manufactured through job workers, excess production of scrap and burning loss was allegedly shown. On the basis

of the data contained in the job work register for the period, the percentage of production of finished goods had been calculated for all the three years and compared with the report of Assistant Commissioner of December, 2002 and based on such comparison, it has been alleged that during the year 2004-05 and 2005-06 the appellant has issued more quantity of raw material than what was required. It was further alleged that certain quantity of goods (raw materials and rough forgings) after being cleared from the premises of the appellant to job workers were not received back and appeared to have been cleared from the job worker's premises. It also appeared that the appellant had issued much more quantity of raw materials or rough forgings for both in-house processing and job work, than required. This appeared to be the modus-operandi followed by the appellant to under report clearance. This appeared to be obvious from dispatch and receipt particulars of raw materials in private register were not fully matching with job work register. Thus, it appeared that the excess raw material/rough forgings were cleared clandestinely, without payment of duty. Accordingly, it was alleged, that 487.882MT of raw materials issued (allegedly in excess) for job work were not received back, nor accounted for and 1173.107 MT of rough forgings were also not accounted for. The duty for the year 2004-05 to 2006-07 had been calculated and demanded Rs.1,54,58,307/- plus cess. It also appeared that for the years 2004-05 to 2006-07, the RG-1, Form-IV and daily stock account of the appellant indicated that certain quantity of raw materials and rough forgings were shown issued under the heading 'others'. In his statement dated 19.03.2008, Shri Pathak stated that during the period 2004-05 and 2005-06, a quantity of 104.385 MT and 185.140 MT respectively of raw material was used for captive consumption. It was converted into forgings weighing 93.955MT and 166.620MT and were billed for repair of plant and machinery and for manufacture of tools, dies and fixtures. The said goods have been cleared or used captively under exemption Notification No.67/95-CE. In respect of the said goods, it was alleged that there was no evidence of manufacture of tools, dies & fixtures etc., as claimed out of the rough forgings. Accordingly, the notification benefit claimed, appeared not correct. Accordingly, Central Excise duty of Rs.25,52,260/- was demanded from the appellant on the alleged captive consumption of forgings. It further appeared that the appellant have cleared some inputs received by them from M/s Rashtriya Ispat Nigam Ltd. (RINL) to M/s RKG International without cover of invoice and without reversal of Cenvat credit. Shri Brijesh Kumar Agarwal in his statement dated 31.12.2007 have allegedly admitted that this was done by mistake and was not intentional. A demand of Cenvat credit of Rs.2,62,690/- with cess had been raised for this. It is further alleged that the appellant have availed some inadmissible credit of Rs.2,86,791/- with cess on three invoices, wherein on enquiry, it was found that the vehicles of transport were two wheelers. The transporters also allegedly confirmed that they had not sent the vehicles. The Director of Shyam Forgings- Shri Nitin Agarwal (supplier) have also allegedly confirmed that no goods were sent and these were paper transactions only. The SCN dated 30.05.2008 was adjudicated by the Commissioner who was pleased to confirm the total proposed demand of Rs.2,01,75,107/- including cess together with interest and equal amount of penalty. Further, credit of Rs.5,60,470/- were disallowed, being the Cenvat credit wrongly availed with interest along with penalty of equal amount. Further, a penalty of Rs.35 lakhs was imposed on the Director- Shri Brijesh Kumar Agarwal under Rule 26 of Central Excise Rules, 2002. Being aggrieved, the appellant-assessee and its director have preferred appeal before this Tribunal.

6. The learned counsel for the appellants states that the impugned order is passed in gross violation of the principles of Natural Justice in as much as the learned Commissioner has obtained fresh statements from one Shri

Raj Kumar Sachdeva, Proprietor of M/s Vdanshu Road Carrier and Shri Suresh Chaudhary of M/s S.R. Roadlines on 17.11.2009 behind the back of the appellant, when they presented themselves for cross-examination. Further, he stated, reliance on such statements recorded at the back of the appellant, is not good evidence and cannot be used against the appellant, the same being in violation of the ruling of Hon'ble Supreme Court in the case of Commissioner Vs Indian Oil Corpn. Ltd. reported at 2004 (165) ELT 257 (SC) and also in the case of M/s Tega India Ltd. Vs Commissioner reported at 2004 (164) ELT 390 (SC). Further, he stated that the impugned order has been passed without hearing the appellant. The learned counsel for the appellant was prevented by sufficient cause, to appear before the learned Commissioner. Further, he submitted that rejection of request for adjournment on a bona-fide ground is bad and hit by the ruling of Hon'ble Supreme Court in the case of M/s Salem Advocates Bar Association Vs Union of India reported at V (2005) STL 653. Further, the impugned order is bad for denying the opportunity to cross-examine the panch witnesses, transporters and Shri Nitin Agarwal, Director of M/s Shyam Forgings. It has been repeatedly held by Hon'ble Supreme Court that revenue must examine its witnesses and offer them for cross-examination. It is further contended that the stock verification was done by way of eye estimation only which is evident on the face of record, as there is no record of weighment in the form of weighment slips or a worksheet, etc. It is further stated that cross-examination of Shri Nitin Agarwal, Director of M/s Shyam Forgings has been erroneously denied on the ground that M/s Shyam Forgings was also searched on the same day and they have been issued a separate show cause notice. So far M/s Shyam Forgings are concerned, the allegation against them is that they have cleared goods clandestinely without issuing invoices and without payment of duty and not that the goods were not sent with the invoices. He further stated that in absence of cross-examination, no reliance can be placed on the statement of witnesses, the truth of which could not be tested by way of cross-examination, as required under Section 9D of the Act. Further, during search no incriminating documents have been recovered either from the factory premises of the appellant or the residential premises of its directors, which can point towards any evasion of duty. No unaccounted cash has been recovered. The two registers (Sl. No.55 & 64) which have been recovered, tally with the statutory records except for a few stray instances which have been duly explained. Further, no incriminating records were recovered from the premises of the five raw material suppliers or the five job workers which also proves the bona fide of the appellant. He further submits that the demand of duty is presumptive and based on erroneous calculations, as the Department has not taken into consideration scrap generated and burning loss during the course of manufacture of forgings. There is no unexplained discrepancy, as alleged between the statement of the Director Shri Brijesh Agarwal and the GM (commercial) Shri C.P. Pathak. As per both of them, generation or yield of finished goods is 48%. Shri Agarwal had not mentioned the burning loss separately. He further submits that the learned Commissioner failed to appreciate that the input output norms were fixed by the Assistant Commissioner, after testing which showed 46.98% of production of finished goods, 45.90% of scrap and 7.32% burning loss. Thus, the total scrap and burning loss as per the departmental report of the year 2002 is 53.22%. He further states that the demand has been calculated by taking the report of the Superintendent (on the basis of which Input Output norms were fixed by the Assistant Commissioner) as the basis and the duty has been demanded on the alleged excess scrap generated, by presuming that the appellant has cleared forgings in the garb of scrap. However, this demand has been calculated erroneously, as the generation of scrap at the cutting stage (first step in the process of manufacture) has not been taken into account and only the burning loss has been considered. Further, the demand is raised on the presumption that the appellant must have cleared forgings in the garb of scrap without there being any evidence in support of this contention. Further, there is no investigation with regard to the alleged purchasers of the goods, clandestinely cleared, the manufacture of excess quantity of forgings, the receipt of consideration for such forgings, and so on. The duty confirmed, being on the basis of bald allegations, in absence of any corroborative evidence, is not sustainable. Further, he placed reliance on the ruling of this Tribunal in the case of M/s Pepsico India Holding Limited Vs CCE 2000 (117) ELT 659 (Tribunal) which was confirmed by the Hon'ble Bombay High Court reported at 2008 (232) ELT A 197. Although the input output norms were fixed, however, in all cases duty have been paid by the appellant on the actual production, whether the same was more or less than the prescribed norms. Further he states that the demand of duty based on input output norms, is presumptive and not sustainable. The generation of scrap and burning loss is dependent on various factors. Thus, the input output ratio cannot be used to raise demand of duty. In the show cause notice the average burning loss for all three sizes of raw materials have been taken as 7.32%, whereas verification chart prepared by the superintendent for each of the three sizes clearly establishes that the burning loss and scrap generation is different for different products. Further, there was no discrepancy in the stocks. as alleged. There was no physical verification done and the verification was done by way of eye estimation only. Thus, there are bound to be substantial errors, calling for no adverse inference. It is further stated that the panchnama is not a reliable piece of evidence, as the two panch witness were not present throughout the said proceedings and they were called only at the end to sign the panchnama. Further, inspite of requisition by the appellants the investigating officers and the panch witnesses were not produced for cross-examination. Further, some quantity of goods have been used by the appellant for captive consumption during the said period on the basis of Central Excise invoices by availing exemption for captive consumption. The same was duly reflected in appellant's form-IV register, Daily Stock Register. Further the work was executed, as regards captive consumption, through the contractor who has raised invoices for the same. Further, he stated that non reversal of Cenvat credit on the three invoices of M/s Rashtriya Ispat Nigam Ltd. was only a clerical mistake, calling for no adverse inference. As regards the allegation that the appellant had availed inadmissible credit on three invoices of M/s Shyam Forgings Private Ltd.- Unit-II, as the goods were not received by the appellant, the appellant had requested for copies of all the three GRs, so as to enable them to verify and make further submissions. However, the GRs were not supplied to the appellant, resulting in denial of Justice and opportunity of hearing. The goods supplied under Vehicle No.UP-14X-7852 are not in dispute. The dispute is regarding supply by other vehicles for which Cenvat demand had been raised. Hence, no reliance can be placed on the statement of Shri Suresh Chaudhary of M/s S.R. Road Lines, the same is wholly irrelevant. Further, in the case of the appellant, as is evident from the records, that the disputed inputs were received by them, entered in the records, issued to production and the finished goods manufactured were duly reflected in the RG-1 register and cleared upon payment of duty. Learned Counsel further states that the show cause notice is also bad for invocation of the extended period of limitation, the same being presumptive, based on input output norms. The appellants have been filing regular ER-1 returns and have been maintaining the prescribed statutory records. The production of finished goods and generation of scrap was duly reflected in the records of the appellant and the percentage of scrap generated could have been easily verified by the Department. Accordingly, the learned counsel for appellants prays for setting aside the impugned order and allowing the appeals with consequential relief to the appellants.

7. The learned A.R. for revenue has relied upon the impugned order.

8. Having considered the rival contentions, we find that amount of Rs.1,54,58,307/- has been confirmed towards Excise duty for the period from 2004-05 to 2006-07 on the presumption that the appellant have clandestinely cleared their finished goods, by showing excessive generation of scrap and burning loss. The basis of this presumption by revenue is the statement the Director Shri Brijesh Kumar Agarwal wherein he had stated that approximately 52% scrap is generated. He also stated that scrap generated during the period 2003-04 was 43.25%, during 2004-05 was 39.59% and during 2005-06 was 47.61% of the inputs consumed. He had also stated that generation of scrap depends upon the type of product to be manufactured and the type of inputs consumed. Shri Suresh Sharma, Clerk of the appellant had inter-alia stated that he was maintaining the private register as per Sl. No.55 of the panchnama for his convenience (not authorized by the management). On being asked about the discrepancies between the said register no. 55 (private document) and the job work register (statutory document) he stated that the entries in the job

work register were being made by Excise people/staff. Further, another register at Sl. No.64 of panchnama (private record), resumed from the factory premises, bearing the heading "Forging R.G.P." was also compared with the job work register and the register at Sl. No.55. The dispatch details for job work register were found tallying with the said two private registers. The weight of the goods received back was apparently different in the three registers. Accordingly, we find without quantifying the material difference, revenue has presumed that there could be situation where the goods were issued/sent for job work but not received back and that the goods shown as received in the job work register, but not reflected as received in register no.64/55, were actually not received. Further, we find that Shri Brijesh Kumar Agarwal, Director in his statement had categorically stated that such private registers were prepared by employees and the said registers were not related to management and as such we find that the same are not reliable nor have any evidential value, for drawing adverse inference against the appellant. Further, we find that there is no unaccountable discrepancy between the statement of Shri Brijesh Kumar Agarwal, Director and Shri C.P. Pathak, GM (Commercial), as both have stated that generation or yield of finished goods is about 48% of the inputs and generation of scrap plus burning loss being about 52%. The said ratio of generation of scrap and burning loss was also verified by Assistant Commissioner in the year 2002 for the purpose of fixing the input/output norms for production of goods for export. The Assistant Commissioner has found that the finished product/flanges were 46.98% and scrap was 45.70% while burning loss was about 7.32%. Further, we find that it is admitted fact that the appellants have disclosed higher percentage of production and less percentage of scrap plus burning loss, during the periods under consideration and accordingly, adverse inference drawn by revenue on assumption and presumption is not tenable. Thus, duty of Rs.1,54,58,307/- is set aside. We find that similar view was taken by Hon'ble Supreme Court in the case of M/s Tega India Ltd. (supra) wherein production had been assumed on iron and steel items, based on standard consumption of electricity. Further, assumptions and presumptions, however strong cannot take place of evidence.

8.1 So far the demand of Rs.25,52,260/- is concerned relating to disallowance of captive consumption of inputs/semi finished goods, the same is also based on the presumptions, that these were actually converted into forgings, but were used for repair of plant and machinery and manufacture of tools, dies & fixtures, etc. It has been further held by court below that there is no evidence of manufacture of tools, dies & fixtures, etc. claimed. Further, we find that there is no proper basis for such presumption and the denial of benefit of exemption under Notification No.67/95-CE, is only on the basis of suspicion. The appellants have got the work of fabrication including jigs tools, dies, etc. through the contractor and the bill of contractor was available on record and the same are not found untrue. Accordingly, we hold that the demand of duty of Rs.25,52,260/- is not tenable and the same is set aside.

8.2 So far the demand of Rs.12,30,388/- is concerned the same is with respect to alleged shortage in the stock of raw materials, scrap and finished goods on the date of inspection. From the perusal of records, we find that there is no calculation sheet and/or weighment slips available on record. From perusal of panchnama, it is the evident that the physical verification is done by eye estimation. Accordingly, we hold that the demand of duty is bad and the same is without following the procedure, hence erroneous and accordingly, we set aside the same.

8.3 So far the demand of Rs.2,62,690/- is concerned the same relates to receipts of inputs from M/s RINL which were sent on job work to M/s R.K.G. International without cover of invoice and without reversal of Cenvat credit. As the mistake is committed by the management of the appellant's company, the same is confirmed. As the amount was reversed during investigation, the penalty on the same is also set aside.

8.4 So far disallowance of Cenvat credit of Rs.2,86,791/- relating to three invoices, being inputs dispatched by M/s Shyam Forgings is concerned, we find that the appellant had asked for cross examination of Shri Nitin Kumar Agrawal, Director of M/s Shyam Forgings and other connected persons, as well of copy of G.R's, etc. In absence of providing cross-examination, and copy of G.R. etc. we find that the appellants had not been provided proper opportunity of hearing. Accordingly, we set aside the demand of Rs.2,86,791/- and the same is remanded to the adjudicating authority for denovo adjudication, after providing opportunity of cross examination to the appellants, copy of documents, and opportunity of hearing.

9. Thus, the appeals are allowed in part and remanded in part, as follows:-

(A) a. Demand of Rs.1,54,58,307/- is set aside.

b. Demand of Rs.0,25,52,260/- is set aside.

c. Demand of Rs.0,12,20,388/- is set aside

Sub Total Rs.1,92,30,955/-

(B) a. Rs.2,62,690/- Demand of Cenvat is confirmed and penalty is set aside.

Ar

b. Demand of Rs.2,86,791/- is set aside and remanded for denovo adjudication.

Sub Total	Rs.5,49,481/- including Cess

10. The personal penalty on Director Shri B.K. Agarwal is set aside.

11. Further, we also direct the appellant to appear before the adjudicating authority within a period of 90 days from receipt of a copy of this order and seek an opportunity of hearing in respect of the remanded matters.

(Pronounced in Court on 05/4/2018)

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

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

akp

प्रमाणित प्रति/Certified True Copy
09/04/18
सहायक पंजीकार/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