IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

E/3417/2012-EX[DB]

(Arising out of Order-in-Appeal No.181-CE/MRT-I/2012 dated 29.06.2012 passed by Commr.(Appeals) of Customs & Central Excise, Meerut-I.)

M/s. Modi Tyres Co. Pvt.Ltd.

…APPELLANT(S)

VERSUS

Commissioner of Central Excise & Service Tax, Meerut-I

RESPONDENT (S)

APPEARANCE

Request for Adjournments for the Appellant (s)
Shri Mohd. Altaf (Asstt.Commr.) (A.R.) for the Revenue

CORAM:

MRS. ARCHANA WADHWA, HON'BLE MEMBER(JUDICIAL)
SHRI ANIL G. SHAKKARWAR, HON'BLE MEMBER(TECHNICAL)

DATE OF HEARING/DATE OF DECISION : 06.07.2018

FINAL ORDER NO.71450/2018

Per Mrs.Archana Wadhwa :

After rejecting the request for adjournment, we proceed to decide the appeal itself as the issue involved stands covered by the precedent decisions of the Tribunal. Accordingly we have heard the ld.DR and have gone through the impugned order.

2. The issue relates to transfer of Cenvat credit availed in respect of inputs as also capital goods in terms of Rule 10 of Cenvat Credit Rules, 2004, on transfer of the sale of the previous unit to the new one.

3. The only objection raised by the authorities below for denial of such transfer of credit is that the same was transferred by the assessee *suo motu* without taking the permission of the Revenue authorities. We find that there is otherwise no dispute about the availability and transfer of the credit.

4. Tribunal in the case of Flex Art Foil Pvt.Ltd. v. Commissioner of C.Ex., Daman [2010 (260) E.L.T. 261 (Tri.-Ahmd.)] has observed that Rule 10 requires no formal permission from the Central Excise officers for transfer of such credit. To the same effect is another decision of the Tribunal in the case of Kiran Pondy Chems Ltd. v. Commissioner of C.Ex., Coimbatore [2009 (239) E.L.T. 192 (Tri.-Chennai)]. Further in the case of Hewlett Packard (I) Sales (P) Ltd. v. Commr. Of Cus., Bangalore [2007 (211) E.L.T. 263 (Tri.-Bang.)], it was observed that prior permission for transfer of credit is not required. The list is unending and law is almost settled. As such we find no reasons to approve the Revenue's objection. Accordingly impugned order is set aside and appeal is allowed with consequential relief.

(Dictated and pronounced in the open Court.)

SD/	SD/
(ANIL G. SHAKKARWAR)	**(ARCHANA WADHWA)**
MEMBER(TECHNICAL)	**MEMBER (JUDICIAL)**

sm