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: 10/11/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71053-71054/2016-SM[BR] dated 04/11/2016

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/CROSS/253/2009	E/995/2009	CCE KANPUR 117/7, SARVODAYA NAGAR, KANPUR 208005.
2	E/CROSS/254/2009	E/996/2009	CCE KANPUR 117/7, SARVODAYA NAGAR, KANPUR 208005.
			Name and Address of Respondent
3			SHRI HARISH CHAND KATYAL, PARTNER M/S KATYA INDUSTRIES, 10 KM. STONE, MATHURA ROAD, AGRA.,.
4			KATYA INDUSTRIES 10 KM. STONE, MATHURA ROAD, AGRA.,,

Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s): SH BIPIN GARG,ADV
B-1/1289-A, VASANT KUNJ
NEW DELHI-70

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, New Delhi-3

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

23-11-16

ISSUED ON

SIGN. (DESPATCH SECTION)
CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
38, M. G. MARG, ALLAHABAD-211001.

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 Guard File

Asstt. Registrar

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

Appeal Nos.E/995 & 996/2009-EX[SM]
AND
CROSS Application Nos.E/253 & 254/2009

Arising out of Order-in-Appeal Nos.11-12/CE/APPL/KNP/2009 dated 14.01.2009 passed by Commissioner (Appeals) Customs, Central Excise, Kanpur.

For approval and signature:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

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1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	: No
2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	: Yes
3. Whether His Lordship wishes to see the fair copy of the Order?	: Seen
4. Whether Order is to be circulated to the Departmental Authorities?	: Yes

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Commissioner of Central Excise, Kanpur

...APPELLANT(S)

VERSUS

M/s Katyal Industries,
Shri Harish Chand Katyal, Partner

...RESPONDENT (S)

APPEARANCE

Shri R.K. Mishra, Supdt. (A.R.) for the Department (s)
Shri Mayank Garg, Advocate for the Respondent (s)

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

DATE OF HEARING & PRONOUNCEMENT: 04.11.2016

FINAL ORDER NO.- 71053-71054/2016

Per Mr. Anil Choudhary :

Both the appeals are filed by Revenue against Order-in-Appeal Nos.11-12/CE/APPL/KNP/2009 dated 14.01.2009 by which in pursuance of remand by this Tribunal vide Final Order No.381-382/07-EX dated 25.06.2007, wherein appeal was allowed by way of remand with the observation as follows:- *"Since receipt of the aforesaid declaration is confirmed by the receipt register of the department, the finding that declaration was not filed is erroneous. The appellants defence relating to declaration was to be considered on merits. In the result, the impugned order is set aside and the appeals are remanded to the Commissioner (Appeals) for a fresh decision on the question of limitation and on merits of the dispute."*

2. Pursuant to remand, the Ld. Commissioner (Appeal) have examined the facts and have recorded a finding that the appellant had filed the appropriate declaration as required for availing SSI exemption under Notification No.8/2003 – CE on 10.04.2003, vide Docket No.1945 in the receipt register of the Division Office. From the copy of declaration, Ld. Commissioner further observed that the said declaration, contained full description of the goods manufactured by the appellant-assessee along with their actual value of clearances during financial year 2002-03. Accordingly, it is held that the show cause notice dated 21.01.2006 was clearly hit by limitation in absence of elements of suppression and or fraud on the part of the assessee.

3. Being aggrieved, the Revenue is in appeal on the ground that as copy of the said declaration is not available on the Department's

records, the same should not have been accepted.

4. Heard the parties.

5. Having considered the rival submissions, I find that the grounds of appeal raised by the Revenue are not tenable, in view of the categorical finding of fact by the Ld. Commissioner appeals. I further find that this tribunal in its Final Order dated 25.06.2007 have also accepted, the filing of the said declaration as corroborated per the receipt register of the Department. In this view of the matter, there are no merits in these appeals, hence, the same are dismissed. The cross objections are allowed for statistical purposes.

(Dictated and Pronounced in the open Court)

Sd/-
(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

Mishra

प्रमाणित प्रति / Certified True Copy
17.11
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