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: 05/01/2017

To

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

Final Order No. A/71225/2016-SM[BR] dated 29/12/2016

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/1250/2011	**BIRLA CORPORATION LTD.,** UNIT-RAEBARELI CEMENT WORKS, D-9, TO D-15, INDL. AREA, PHASE-II, AMAWAN ROAD, RAEBARELI, (U.P.)
		Name and Address of Respondent
2		-C.C.E. LUCKNOW 7-A, Ashok Marg, Lucknow.

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

Bipin Garg & Co.
702, Vindhyachal Kaushambi,
Ghaziabad,
Uttar Pradesh
201012

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, 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 Guard File

Asstt. Registrar

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

Appeal No.E/1250/2011-EX[SM]

Arising out of Order-in-Appeal No.33-CE/LKO/2011 dated 23.02.2011 passed by Commissioner (Appeals) Customs, Central Excise & Service Tax, Lucknow.

M/s Birla Corporation Ltd.

...APPELLANT(S)

VERSUS

Commissioner of Central Excise, Lucknow

...RESPONDENT (S)

APPEARANCE:

Ms. Stuti Saggi, Advocate for the Appellant (s)
Shri D.K. Deb, Asstt. Commr. (A.R.) for the Department (s)

CORAM:

HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

DATE OF HEARING & PRONOUNCEMENT : 29.12.2016

FINAL ORDER NO.- 71225 /2016

Per Mr. Anil G. Shakkarwar:

This appeal is filed by the appellant, M/s Birla Corporation Ltd., against Order-in-Appeal No.33-CE/LKO/2011 dated 23.02.2011 passed by Commissioner(Appeals), Lucknow.

2. The brief facts of the case are that the appellant were engaged in manufacture of Cement. The appellant was availing the facility of Cenvat Credit. The appellant was taking Cenvat Credit on service tax paid ~~as~~ on outward freight for transportation of finished goods from factory to the premises of dealers. The appellants were issued with a show-cause-notice dated 18.02.2010, wherein there was proposal to deny Cenvat Credit of Rs.36,49,126/- for the period from February

2009 to December, 2009. The said show-cause-notice was adjudicated through Order-in-Original dated 14.05.2010, wherein the said Cenvat Credit was disallowed and a penalty of Rs.2,000/- was imposed. Aggrieved by the said order, the appellant preferred appeal before Ld. Commissioner (Appeal), which decided through impugned Order-in-Appeal dated 23.02.2011. Ld. Commissioner (Appeal) dismissed the appeal before him. Aggrieved by the said Order-in-Appeal, the appellant is before this Tribunal.

3. Learned counsel for the appellant has submitted that the issue for another period has already been decided by this Tribunal through Final Order No.70180/2016 dated 29.10.2015, wherein it was held that the appellant were entitled for said Cenvat Credit of Service Tax paid on transportation from factory to destination of FOR.

4. Heard the Ld. DR for Revenue, who has agreed that the said Final Order is squarely applicable in the present case.

5. Having considered the contentions from both sides, I find that said Final Order dated 29.10.2015 is squarely applicable in the present case, since, it is passed in respect of the same assessee for another period. Therefore, following the same final order dated 29.10.2015, I allow this Appeal. The appellant shall be entitled for consequential relief, as per Law.

(Dictated & pronounced in the open Court)

(Anil G. Shakkarwar)
Member (Technical)

Mishra

प्रमाणित प्रति / Certified True Copy
16.1.17
सहायक पंजीकार / Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण / (C.E.S.T.A.T.)
38, एम. जी. मार्ग, [illegible]
38, M. G. MARG, ALLAHABAD [illegible]