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: 03/11/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71026-71027/2016-EX[DB] dated 28/09/2016

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/54889/2014	GAURI COMPONENT P LTD C-18-21, PARTAPUR INDUSTRIAL AREA,MEERUT UP
2	E/60494/2013	GAURI COMPONENT P LTD C-18-21,PARTAPUR INDUSTRIAL AREA,MEERUT U.P
		Name and Address of Respondent
3		C.C.E. & S.T.-Meerut-i EXCISE CHOWK...UNIVERSITY ROAD,MANGAL PANDEY NAGAR, MEERUT, UTTAR PRADESH-250005
4		C.C.E. & S.T.-Meerut-i EXCISE CHOWK...UNIVERSITY ROAD,MANGAL PANDEY NAGAR, MEERUT, UTTAR PRADESH-250005

Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s):

LASA CONSULTANCY PVT LTD
D-60, GROUND FLOOR, SECTOR-2,
NOIDA DISTRICT GAUTAM BUDDH
NAGAR UP

23-11-16

ISSUED ON

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

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

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/60494/2013 & 54889/2014-EX[DB]

Arising out of OIO No. 56/COMMR./MRT-I/13 dated 23.08.2013 & OIO No.20/COMMR./Meerut-I/2014 L both passed by Commissioner, Customs & Central Excise, Meerut-I.
Ldt 13/06/2014

For approval and signature:

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

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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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i) Gauri Component Private Ltd.
ii) Gauri Component (P) Ltd., Meerut.

...APPELLANTS

VERSUS

C.C.E. & S.T., Meerut-I

...RESPONDENT

APPEARANCE

Shri R.M. Saxena, Advocate for the appellants
Shri Sumanta S. Chattopadhyay, Supdt., (A.R.) for the Department

CORAM:

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

DATE OF HEARING & PRONOUNCEMENT : 28. 09. 2016

FINAL ORDER NO. 71026 and 71027/2016

Per Mr. Anil G. Shakkarwar :

The brief facts of the case are that the appellant was receiving certain goods for job work from the principal on 57F4 Challans and after job work returning the same by endorsing on the reverse of ~~the return~~ of the same to the principal. In addition the appellant was also manufacturing the outer component and fitting the job received for job work into the outer component. The assessee was clearing the outer component by issue of invoice and payment of appropriate excise duty on the valuation of the outer component. The case of the Revenue is that, the valuation of the outer component should include the value of the job which the assessee was receiving on 57F4 Challans for the period from 2007-08 to 2010-11 and 2011-12. The appellants were issued with show cause notice dated 27/05/2012 demanding excise duty of Rs. 1,14,68,382/-. There were proposal for recover interest and imposition of penalty. Similar such show cause notice dated 18/04/2013 was issued for subsequent period and the demand raised in the said show cause notice was Rs. 21,73,707/- for the period from April, 2012 to November, 2012. There was also proposal to recover interest at appropriate rate on Rs. 21,73,707/-. Show cause notice dated 25.07.2012 was adjudicated through Order-in-Original No. 56/COMMR./MRT-I/13 dated 23.08.2013 wherein the demand of Central Excise Duty of Rs. 1,14,68,382/- was confirmed and equal amount of penalty was imposed and appellants were directed to pay interest. The show cause notice dated 18.04.2013 was adjudicated thorough Order-in-Original No. 20/COMMR./MRT-1/2014 dated

13.06.2014 wherein demand of Rs. 21,73,707/- was confirmed and the said amount was appropriated and equal penalty was imposed. The said Order-in-Original dated 23.08.2013 is challenged before this Tribunal which is impugned order in Appeal No. E/60494/13-EX. The Order-in-Original dated 13.06.2014 is challenged before this Tribunal and the same is impugned order in Appeal No. E/54889/2014-EX.

3. The main contention of the appellant is that, the goods manufactured by them are being cleared on appropriate duty. The value of the goods that the Revenue wants to include in the assessable value are not the goods manufactured by them, nor cleared by them and that those goods are returned on the Challans on which they were received by them. Further, on fixing the job into outer component the commodity that emerges is not marketable.

4. Heard learned A.R. for the Department who wants to rely on rulings of Hon'ble Supreme Court in the case of ***Union of India vs. J.G. Glass Industries Ltd.*** reported at ***1998(97) E.L.T. 5 (SC).***

5. We have taken into consideration the rival contentions. We find that there is no provision of law for including the value of goods received for job work into value of the goods manufactured by a manufacturer. The job work is separately covered by Notification No. 214 of 1986. The law has provided elaborate procedure to deal with the same. The principal manufacturer takes the responsibility of payment of excise duty on the goods that emerge out of job work. Notification No. 214/1986 provides exemption to the job worker from payment of excise duty. The goods received from job worker are returned to the principal and if the goods are returned to the principal

by endorsement on the reverse of the Challans the transaction is completed. There is no provision in Central Excise Law to include value of job work in the value of goods manufactured by a manufacturer. Further, we do not find that the case law relied upon by Revenue is squarely applicable in the present case. Therefore, we hold that both the show cause notices are ill conceived and they are not sustainable. We, therefore, allow the appeals with consequential relief, if any.

(Pronounced and dictated in the open Court).

Sd/- Sd/-

(ANIL G. SHAKKARWAR) (ANIL CHOUDHARY)
MEMBER (TECHNICAL) MEMBER (JUDICIAL)

Patel/-

प्रमाणित प्रति / Certified True Copy
16.11
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