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: 31/07/2017

To

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

Final Order No. A/70719/2017-SM[BR] dated 18/07/2017

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/2/2011	**GOBIND SUGAR MILLS LTD.,** P.O. AIRA ESTATE, LAKHIMPUR KHERI (U.P.)
		Name and Address of Respondent
2		-C.C.E. LUCKNOW 7-A, Ashok Marg, Lucknow.

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

Rajesh chibber
FA-9, KAVI NAGAR,
GHAZIABAD,
UP

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 & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. E/2/2011-EX[SM]

(Arising out of Order-in-Appeal No. 342-CE/LKO/2010 dated 22/10/2010 passed by Commissioner of Central Excise, Service Tax & Customs (Appeals), Lucknow)

Gobind Sugar Mills Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Lucknow **Respondent**

Appearance:

Shri Rajesh Chhibber (Advocate) for Appellant
Shri Gyanendra Kumar Tripathi (Assistant Commissioner) AR for Respondent

CORAM:

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

Date of Hearing : 18/07/2017
Date of Decision : 18/07/2017

FINAL ORDER NO-70719/2017........

Per: Anil Choudhary

The issue in this appeal is denial of Cenvat ~~Credit of~~ service tax paid on commission paid to the sugar selling agents.

2. The brief facts are that during the course of audit of the appellant's accounts by the Department, it was observed that the appellant have availed Cenvat Credit of service tax paid on sales commission to sugar selling agents. The same appeared to be not an input service under the definition as per Rule 2(l) of CCR, 2004. Accordingly, for the period 2007-2008 & 2008-2009, show cause notice dated 03 August, 2009

was issued for disallowance of Cenvat Credit Rs. 11,07,453/-.

3. Heard the parties on merits.

4. I find that the issue herein is squarely covered by the precedent ~~Pres~~ ruling of this Bench, Final Order No. 71069/2016 dated 18 November, 2016 in Appeal No. E/70758/2016-SM wherein under similar facts and circumstances, it was held that Cenvat credit on the sales promotion expenses or sales commission expenses incurred by the assessee are allowable. On a plane reading of Rule 2(l) of CCR, 2004, it is evident that in the case of a manufacturer, input service means, any service used by them, ~~infection~~ whether directly or indirectly, ~~in order~~ in relation to the manufacture of final products and clearance of final products up to the place of removal and includes services used in relation to sales promotion, market-research, etc. Accordingly, I hold that the appellant herein is entitled to Cenvat credit on Sales Commission paid to sugar selling agents as input credit under Rule 2(l) of CCR, 2004. Accordingly, the appeal is allowed and the impugned order is set aside. The appellant shall be entitled for the consequential benefits in accordance with law.

(Dictated and pronounced in Court)

Sd/-

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

Anku

प्रमाणित प्रति/Certified True Copy
10/08/2017
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