FAX : 0532-2466172

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 07/09/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70741/2016-SM[BR] dated 30/08/2016

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/MISC/70112/2015	E/1336/2003	**TIN MANUFACTURING CO (INDIA)** 95,RAJENDRA NAGAR,INDUS. AREA,MOHAN NAGAR GHAZIABAD UP
			Name and Address of Respondent
2			C.C.E. & S.T.-Ghaziabad 202...WING A C.G.O. COMPLEX-II,KAMLA NEHRU NAGAR, GHAZIABAD, UTTAR PRADESH-201002

Copy To

3Advocate(s) / Consultant(s):

SH RAJESH CHIBBER,ADV
FA-9 KAVI NAGAR
GHAZIABAD

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 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15
10 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
11 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070
12 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38
13 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

14 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

15 C.D.R. 16 Office Copy 17 Guard File

Asstt. Registrar

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

Ex.Appeal No.1336/03

Arising out of OIA No.127-CE/GZB/03 dated 20/03/2003 passed by the Commissioner (Appeals), Central Excise, Customs, Ghaziabad.

For approval and signature:

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

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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M/s Tin Manufacturing Co. (India)

...APPELLANT(S)

VERSUS

Commissioner of C.Ex., Ghaziabad

RESPONDENT (S)

APPEARANCE

Shri Rajesh Chibber, Adv. for the Appellant (s)
Shri Pawan Kumar Singh, Supdt. (A.R.) for the Respondent

CORAM:

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

DATE OF HEARING & PRONOUNCEMENT : 30.08.2016

Final ORDER NO. 70741/2016

Per Mr. Anil Choudhary :

The Appellant, M/s Tin Manufacturing Co. (India) is in Appeal against Order-in-Appeal No. 127-CE/GZB/03 dated 20/03/2003 passed by the Commissioner (Appeals), Central Excise, Customs, Ghaziabad.

2. The issue in this appeal filed by the appellant assessee is whether they have rightly taken Cenvat credit after six months from the date of receipt of inputs.

3. As per the order-in-appeal dt.20.03.2003, the facts are that the appellant received inputs with bill of entry issued in the year 1992 against which credit ~~had~~ was availed in the year 1994 by showing that goods were received in the factory in the year 1992. The bill of entry were not in the name of the appellant but had been ~~in those~~ endorsed in their favour by the importer named therein. The learned counsel for the appellant urges that the learned Commissioner ~~would~~ have erred in not allowing the Cenvat credit on the ground that credit should have been taken within reasonable time and/or within six months relying on the ruling of this Tribunal in the case of Andhra Electro Galvanising Works Vs. Collector of Central Excise, Hyderabad : 1995 (80) ELT 322.

4. The ld. A.R. for Revenue relies on the impugned order.

5. Having considered the rival contentions, I find that the issue is no longer *res-integra*. In the appellant's own case in Excise Appeal No. 1285/2003 vide Final Order No.70145/2016 dt. 22.04.2016, it has been held that under the facts and circumstances that the document/bill of entry was dated prior to 26th June, 1995 when period

of six months was introduced, credit cannot be disallowed. Relying on the ruling of the Honourable Supreme Court in case of Collector of Central Excise Vs. Raghuar (India) Ltd., this tribunal upheld the allowability of Cenvat credit availed after more than a period of six months from the date of document and receipt of the goods. Accordingly, I allow this appeal holding that the appellant is entitled to avail Cenvat credit in the facts and circumstances. The appellant will be entitled to the consequential benefits, in accordance with law.

(Dictated and pronounced in the open Court)

Sd/-

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

mm

प्रमाणित प्रति / Certified True Copy

23.9

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