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: 12/04/2017

To

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

Final Order No. A/70352/2017-EX[DB] dated 06/04/2017

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/105/2007	**JAI SHREE UDYOG** Compwell Road, Lucknow.
		Name and Address of Respondent
2		-C.C.E. LUCKNOW 7-A, Ashok Marg, Lucknow.

Copy To

3 Bar Association, CESTAT, Allahabad

4 Director Publications, Customs, Excise. I.P. Estate, Delhi

5 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

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

7 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

8 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

9 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

10 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

11 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

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

13 C.D.R. 14 Office Copy 15 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. E/105/2007-EX[DB]

(Arising out of Order-in-Appeal No. 129-CE/2006 dated 29/08/2006 passed by Commissioner of Customs, Central Excise & Service Tax (Appeals), Lucknow)

M/s Jai Shree Udyog Appellant

Vs.

Commissioner of Central Excise, Lucknow **Respondent**

Appearance:

None for Appellant

Shri Sandeep Kumar Singh, Deputy Commissioner, (AR), for Respondent

CORAM:

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

Date of Hearing & Date of Decision: 06/04/2017

FINAL ORDER NO...70352/2017......

Per: Anil Choudhary

The appellant is absent on call for several dates of hearing and also not present today on call. Notice is served.

2. Heard the ld. A. R., Shri Sandeep Kumar Singh, for the Revenue and perused the records.

3. We find that the only issue in this appeal is, whether the freight charges collected separately by the appellant-assessee through debit notes and which were not shown separately in the Central Excise invoice issued for

Av

such clearance, whether such freight charges are includible in the assessable value.

4. According to Rule 5 of Central Excise Valuation (Determination of Price of Excisable goods) Rule, 2000, provided – where any excisable goods sold in the circumstances specified in clause (a) of Sub-section (1) of Section 4 of the Act except the circumstances in which the excisable goods are sold for delivery at a place other than the place of removal, then the value of such excisable goods shall be deemed to be the transaction value, excluding the actual cost of transportation from the place of removal upto the place of delivery of such excisable goods provided the cost of the transportation is charged to the buyer in addition to the price of the goods as shown separately in the invoice for such excisable goods.

5. Revenue is of the view that such transport charges have not been reflected in the invoice but have been charged separately by way of debit note, accordingly, there is violation of Rule 5 and the said freight charges are includible in the assessable value.

6. Having considered the rival contentions and on perusal of the records, we find that it is admitted fact that the appellant-assessee have raised separate invoice/debit note of the freight charges for the clearance of final products. Accordingly, we hold that the same amount having shown freight separately. We, further, hold that it is not necessary

that the freight be reflected on the excise invoice only. Accordingly, this appeal is allowed and the impugned order is set aside. The appellant will be entitled to consequential benefit, if any, in accordance with law.

(Dictated and pronounced in Court)

-Sd/-
(ANIL G. SHAKKARWAR)
Member (TECHNICAL)

-Sd/-
(ANIL CHOUDHARY)
Member(JUDICIAL)

Ansari

प्रमाणित प्रति / Certified True Copy
28/04/2017
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