CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
OLD RED BUILDING, 38,M.G.Marg,CIVIL LINES, ALLAHABAD

Dated: 22/04/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/ 70133/2016 SM dated 8/4/2016

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
	E/55887/2014	SARJOO SAHKARI CHINNI MILLS LTD BELRAYAN, DISTT- LAKHIMPUR KHERI(UP)
	Name and Address of Respondent	COMMISSIONER OF CENTRAL EXCISE, LUCKNOW 7-A, ASHOK MARG, LUCKNOW

Other Appellants and Respondents as per Annexure

Copy To

3Advocate(s) / Consultant(s SH VIKRANT KACKRIA,ADV
H.NO 509, SECTOR-7
PANCHKULA, HARYANA.

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

Asstt. Registrar
Regional Bench, Allahabad

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, REGIONAL BENCH : ALLAHABAD

Single Member Bench

Appeal No. E/55887/2014(SM)

[Arising out of Order-in-Appeal No. 110/CE/LKO/2014 dated 22.08.2014 passed by Assistant Commissioner of Central Excise & Service Tax, Division, Sitapur)

1.	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3.	Whether their Lordships wish to see the fair copy of the order?	
4.	Whether order is to be circulated to the Department Authorities?	

M/s. Sarjoo Sahkari Chinni Mills Ltd. — **Appellant**

Vs.

Commissioner of Central Excise, Lucknow — **Respondent**

Appearance:

Shri Jatin Mahajan (Advocate) — for Appellant
Shri Rajeev Ranjan, Joint Commissioner (AR) — for Respondent

Coram:

Hon'ble Shri Anil Choudhary, Member(Judicial)

Date of Hearing : 08/04/2016

Date of Decision : 08/04/2016

Final ORDER No. 70133/2016

Per: Anil Choudhary

1. The issue in this appeal is – whether in absence of evidence of removal, reversal of duty can be demanded under the provisions of Rule 3(5A) of CCR, 2004.
2. Heard the parties.
3. As per SCN dated 12.09.11 for the extended period 2006-07 to 2009-10, appellant- who had insured its capital goods like motors, computer, air conditioner, etc, against damage and received some amount as insurance claims against damage-repair of capital goods, and damaged parts were written off from the account, but did not reverse the credit taken, nor paid the duty, was liable to pay under rule 3 (5A) of CCR, 2004.
4. That on going through the provisions of Rule 3 (5) & 3(5A), it is evident that the Rule is attracted in case of removal/transfer of asset. As per the appellant, the goods were removed for repairs under the procedure as per Rule 4(5)(a) and received back within the stipulated period.

5. That, I find that from the SCN as well as impugned order, no case of removal of asset (s) is made out, so as to attract the provisions of Rule 3(5) or 3(5A) of CCR, 2004.

6. Thus, the appeal is allowed and the impugned order is set aside. The appeal also succeeds on the ground of limitation; it is held that extended period is not invokable under the facts. The appellant will be entitled to consequential benefit, in accordance with law.

(Dictated and pronounced in the open Court)

Sd/-
(Anil Choudhary)
MEMBER (Judicial)

(Akp/)

प्रमाणित प्रति / Certified True Copy
6.5.16
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