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

Dated: 13/1/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/ 70003/2016 SM dated 28/10/2015

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/59554/2013	U.G.SUGAR & INDUS LTD SEOHARA, BIJNORE UP)

Name and Address of Respondent	CCE, MEERUT II OPP SHAHEED SMARAK DELHI ROAD, BHANSALI GROUND, MEERUT(UP)

Other Appellants and Respondents as per Annexure

Copy To

3Advocate(s) / Consultant(s): SH KAMALJEET SINGH,ADV
J-144, PATEL NAGAR-1
GHAZIABAD(UP).

4 Bar Association, CESTAT, Delhi
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

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

Ex. Appeal No.59554/13

Arising out of OIA No.46-CE/M-II/2013 dated 23.05.2013 passed by Commissioner of Central Excise (Appeals), Meerut II

For approval and signature:

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

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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.

M/s U. G. Sugar & Industries Ltd. ...APPELLANT(S)

VERSUS

Commissioner of Central Excise, Meerut II RESPONDENT (S)

APPEARANCE

Shri Kamal Jeet Singh, Adv. for the Appellant (s)
Shri V. K. Shastri, A.C. (A.R.) for the Department

CORAM:

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

DATE OF HEARING & PRONOUNCEMENT : 28. 10. 2015

Final ORDER NO. 70003/2016

Per Mr. Anil Choudhary :

The Appellant, M/s U. G. Sugar & Industries Ltd., is in Appeal against Order-in-Appeal No.46-CE/M-II/2013 dated 23.05.2013 passed by Commissioner of Central Excise (Appeals), Meerut II

2. Brief facts are that the appellant are manufacturer of sugar and molasses, had availed Cenvat credit on input services received and utilised by them. It appeared to revenue, during scrutiny of the returns and credit taken in respect of the input services during the month of December 2010 wherein credit taken appeared to be not on proper documents as required under Rule 9(1) and (2) of CCR and it further appeared that services shown therein do not appear to be within the purview of input services as defined in rule 2(1) of CCR 2004. Accordingly show cause notice dated 6/1/12 was issued calling upon the appellant to show cause, as to why Cenvat credit in respect of various services as stated in Annexure 'Á' to the SCN totalling Rs. 4,95,932/- be not disallowed under rule 14 of CCR read with section 11 A of the Act, along with interest and further penalty was proposed under rule 15 of CCR read with section 11 AC. The appellant appeared and contested the SCN vide

their reply dated 21/1/13; vide order-in-original dated 21.1.2013, out of the proposed amount, Rs.1,83,736/- was held allowable and Rs.3,12,196/- was disallowed as credit wrongly taken and utilised during the month of December,2010, along with interest and further equal amount of penalty was imposed under Rule 15 of Cenvat credit rules. Being aggrieved the appellant had preferred appeal before ld. Commissioner (Appeals), who vide the impugned order was pleased to allow the appeal in part upholding the order-in-original part.

3. Being aggrieved the appellant is before this Tribunal. The ld. Counsel urges that most of the services in question, have been held as eligible vide various decisions of this Tribunal and the Courts. In respect of the input credit of Rs.16,510/- taken on service charges, It is explained that the same relates to repairing charges for generator set, service charges paid for providing assistance in market research and computer networking, for secretarial audit certificate is required to be procured under the guidelines by SEBI including other compliances under the listing agreement and accordingly the services are received in running of the business activity and the same are fully eligible. With regard to professional services Rs.541/-, availed in respect of services of chartered accountant, tax advisers et cetera the same are fully allowable. So far credit of Rs.2,95,095/- availed on the invoice of one "Shree Services and Trading Company Limited," Kolkata which was for various services

rendered by them during the period July 2010 September 2010 the same was disallowed on the ground that specific service have not been mentioned by the provider of service on the invoice, and accordingly it was disallowed.

4. The ld. Counsel points out that so far the issue of service provided by Shree S$ervices and Trading Company Limited, the issue is no longer *res integra* and the same was allowed by Commissioner appeals in OIA number MRT/EXCUS/002/APPL/80/2013-14 dated 12/8/13 wherein the agreement between the parties was examined and it was held that the services received qualify under the head 'business auxiliary service' and accordingly the input credit was held allowable. The ld. Counsel also points out that the issue of Shree Services and Trading Company Limited was also considered by this Tribunal in Appeal No. 1384-1385/2012 EX (SM) vide final order dated 4/7/2014, it was held that the revenue have not denied the fact of element of service tax paid by the service provider and the fact of availment of service by the service recipient, i.e. the appellant. The service provider has also taken service registration which is a matter of record. Only for the reason that details of service has not given in the invoice of the service provider, the substantial benefit of Cenvat credit cannot be denied and accordingly allowing the appeal held the Cenvat credit as allowable. The ld. Counsel further points out that so far input services received from chartered accountants and the other

professions ~~i.e.~~ is concerned the same have been held allowable in Commissioner of Central Excise versus Hindustan Coca-Cola beverages Limited 2011 (271) ELT 314 (Tri-Del.) Even security service received for safeguarding goods stored outside the factory premises, was held allowable. He further relies on the Single Bench ruling of this Tribunal in the case of Commissioner of Central Excise & S.Tax (LTU) Vs. Lupin Ltd. : 2012 (285) ELT221 (Tri.-Mum.) wherein Cenvat credit on several services was under consideration including maintenance, rent a cab, brokerage, civil construction, catering, garden cleaning, repair and maintenance, this Tribunal following the ruling of Bombay High Court in CCE versus Ultratech cement Ltd 2010 TIOL-745 – HC – MUM, held that the definition of input service under rule 2 (l) ~~and~~ of CCR is very wide and covers not only services which are directly or indirectly used in or in relation to the manufacture of final product but also services utilised in the business of manufacturer. Following the ratio of the judgement of Honourable High Court this Tribunal allowed the appeal. The ld. Counsel also relies on the ruling in the case of Nirma Ltd. Vs. Commissioner of Central Excise & S.Tax of this Tribunal reported at 2015 (39) STR 145 wherein the service charge in respect of repair and maintenance services for the xerox machine was held as eligible input service. Accordingly the ld. Counsel prays for allowing the appeal.

5. The learned D.R. relies on the impugned order.

6. In view of the aforementioned discussion and rulings, I find that the services in question qualify as input services in the case of the appellant. Accordingly, the appeal is allowed and the impugned order is set aside, So far it disallowed cenvat credit. The appellant is entitled to consequential benefits, if any, in accordance with law.

(Dictated and pronounced in the open Court)

mm

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)