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: 07/12/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71108-71109/2016-EX[DB] dated 01/12/2016

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/2005/2008	**PREMIER ISPAT LTD.** F-4 & 5, UPSIDC INDUSTRIAL AREA, JAINPUR, KANPUR DEHAT.
2	E/2006/2008	**SH. AMIT JAIN, DIRECTOR OF** M/S PREMIER ISPAT LTD., F-4 & 5, UPSIDC INDUSTRIAL AREA, JAINPUR, KANPUR DEHAT.
		Name and Address of Respondent
3		-C.C.E. KANPUR 117/7, Sarvodaya Nagar, Kanpur 208005. -
4		-C.C.E. KANPUR 117/7, Sarvodaya Nagar, Kanpur 208005.

Other Appellants and Respondents as per Annexure

Copy To

5 Advocate(s) / Consultant(s):

AMIT AWASTHI
H-1, IST FLOOR, RADHEY APPARTMENT,
PLOT NO. 7/116A, SWAROOP NAGAR, KANPUR,UTTAR PRADESH 208002

6 Bar Association, CESTAT, Allahabad

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

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

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

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

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

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

13 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad -- 38

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

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

16 C.D.R. 17 Office Copy ~~18 Guard File~~

Asstt. Registrar

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

APPEAL No.E/2005-2006/2008-EX[DB]

(Arising out of Order-in-Original No. 04/Comm./2008 dated 16.06.2008 passed by Commissioner of Central Excise & Customs, Kanpur)

M/s Premier Ispat Ltd.

Shri Amit Jain, Director of — **Appellant**

Vs.

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

Appearance:

Shri Amit Awasthi, Advocate — for Appellant
Shri Rajeev Ranjan, Joint Commissioner (AR) — for Respondent

CORAM:

Hon'ble Shri Justice Dr. Satish Chandra, President
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 01/12/2016
Date of Decision : 01/12/2016

Final ORDER NO. 71108-71109/2016

Per: Dr. Satish Chandra

Both the appeals have been filed against the Order-in-Original No.4/Commr./2008 dated 16.06.2008.

2. The brief facts of the case are that appellant-assessee is involved in the manufacture of MS Bars, Rounds, SS flats and SS Products. The assessee had procured the raw material through M/s M.K. Steels Pvt. Ltd. The said raw materials were received by assessee in his factory under the cover of form 31 issued by the Trade Tax Department. Later, it was found that M/s. M.K. Steels Pvt. Ltd. has issued the same invoices in number of cases from Kolkata. An investigation was carried out pertaining to various assessee's. In case

of another assessee, the matter has travelled up to the Hon'ble jurisdictional High Court. The Hon'ble Jurisdiction High Court in the case of Commissioner of Central Excise, Customs & Service Tax Vs Juhi Alloys 2014 (302) E.L.T. 487 (All.) has observed that:-

"the assessee has taken reasonable steps to insure that the inputs in respect of which he has taken the Cenvat credit are goods on which the appropriate duty of excise, as indicated in the documents accompanying the goods, has been paid. Admittedly, in the present case, the assessee was a bona fide purchaser of the goods for a price which included the duty element and payment was made by cheque. The assessee had received the inputs which were entered the statutory records maintained by the assessee The goods where demonstrated to have travelled to the premises of the assesee under the cover of Form 31 issued by the Trade Tax Department, and the ledger account as well as the statutory records establish the receipt of the goods. In such a situation, It would be impractical to require the assessee to go behind the records maintained by the first stage dealer. The assessee, in the present case, was found to have duly acted with all reasonable diligence in its dealings with the first stage dealer."

3. During the course of argument both parties have agreed that the issue is squarely covered by the earlier decision of this Tribunal as well as by the ratio letdown by the jurisdictional High Court (supra).

4. By considering the totality of the facts and circumstances of the case, we set aside the impugned order.

5. In the result, both the appeals are allowed, with consequential relief.

(Dictated in Court)

-Sd-	-Sd-
(Anil G. Shakkarwar)	**(Justice Dr. Satish Chandra)**
Member (Technical)	**President**

akp

प्रमाणित प्रति / Certified True Copy

8.12

सहायक पंजीकार / Asstt. Registrar
सीमाशुल्क, उत्पाद शुल्क एवं सेवा कर
अपील अधिकरण / (C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001