REGISTERED / AD

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

Dated: 30/12/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71190-71191/2016-SM[BR] dated 16/12/2016

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/2027/2010	CCE MEERUT Excise Chowk,Opposite Choudhary Charan Singh University Mangal Panday Nagar, Meerut - 250005.
2	E/2031/2010	**DSM SUGAR MILLS LTD** (FORMERLY KNOWN AS M/S MANSURPUR SUGAR MILLS LTD.) P.O.MANSURPUR, DISTT. MUZAFFARNAGAR (UP)
		Name and Address of Respondent
3		-C.C.E. MEERUT I Excise Chowk,Opposite Choudhary Charan Singh University Mangal Panday Nagar, Meerut - 250005.
4		DSM SUGAR MILLS LTD. P.O. MANSOORPUR, DISTT. MUZAFFARNAGAR, (U.P.),,

Other Appellants and Respondents as per Annexure

Copy To
5Advocate(s) / Consultant(s):

AALOK ARORA, ADVOCATE
82-MISSION COMPOUND,
SAHARANPUR,
UTTAR PRADESH
247001

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 AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

Appeal Nos. : E/2027 & 2031/2010-EX[SM]

Arising out of OIA No.279-CE/MRT-I/2009-10 dated 29.03.2010 passed by Commissioner (Appeals), Customs & Central Excise, Meerut-I.

1) C.C.E., Meerut.
2) DSM Sugar Mills Ltd. (E/2031/2010)

...APPELLANTS

VERSUS

1) DSM Sugar Mills Ltd
2) C.C.E., Meerut.

...RESPONDENTS

APPEARANCE

Shri Aalok Arora, Advocate for the assessee.
Shri D.K. Deb, Asstt. Commr. (A.R.) for the Department

CORAM:

HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

DATE OF HEARING & PRONOUNCEMENT : 16.12.2016

FINAL ORDER NO. 71190-71191/2016

Per Mr. Anil G. Shakkarwar :

These two appeals are arising out of Order-in-Appeal No.279-CE/MRT-I/2009-10 dated 29.03.2010. One appeal is preferred by the manufacturer-assessee and the other appeal is preferred by Revenue, therefore, they are taken up together for decision.

2. The manufacturer-assessee is engaged in the manufacture of Cane Sugar and molasses. During the period from November, 2007 to

July, 2008 manufacturer-assessee took Cenvat credit amounting to Rs. 2,00,979/- on Chain Spare/Chain, Steel Wire Rope etc. claiming the same to be capital goods and also availed Cenvat credit of Rs. 98,674/- on welding electrodes. It appeared to Revenue that manufacturer-assessee was not entitled to said Cenvat credit. Therefore, the show cause notice dated 23.09.2008 was issued. It was adjudicated through Order-in-Original No. 31/AC/MZN-I/09 dated 29.10.2009 where the said credit was denied and penalty of equal amount was imposed on manufacturer-assessee. The manufacturer-assessee preferred an appeal before Commissioner (Appeals). The Commissioner (Appeals) decide the appeal through impugned Order-in-Appeal dated 23.09.2010, wherein learned Commissioner (Appeals) upheld the Order-in-Original so far as it denied Cenvat credit of Rs. 2,99,653/- to the manufacturer-assessee and set aside the penalty imposed on manufacturer-assessee. Against confirmation of demand i.e. denial of Cenvat credit, manufacturer-assessee preferred appeal before this Tribunal. Against the dropping of penalty, Revenue preferred appeal before this Tribunal.

3. Shri Aalok Arora, argued that capital goods on which Cenvat credit was denied were Chain spares/Chain/Steel Wire Rope which were accessories of Cane Mills and were used for carrying Sugar Cane for crushing up to the Crusher or Milling Section of the manufacturing unit. He further argued that this Tribunal had constantly held that welding electrodes are admissible as inputs in Sugar Industries.

4. Learned D.R. has supported the impugned Order-in-Appeal.

5. Having considered the rival contentions and on perusal of records I find that appeal preferred by Revenue is covered by litigation policy of C.B.E.C., therefore, I dismiss the appeal filed by the Revenue without entering into merits of the case. In so far as the appeal preferred by manufacturer-assessee is concerned, I find that the goods which were claimed to be capital goods by the manufacture-assessee on which Cenvat credit of Rs. 2,00,979/- was denied could be described as accessories of Cane Milling Machine and also in the Baggasse Carrier, therefore, they are covered by the definition of capital goods under Clause (iii) of Rule 2(a) (A) of Cenvat Credit Rules, 2004. I, further find that this Tribunal has constantly held that welding electrodes are essential for maintenance of machines and therefore they are eligible to be treated as inputs. In view of the above stated finding, I hold that the finding of Original Authority and Commissioner (Appeals) are not tenable in law. Therefore, I set aside Order-in-Original and impugned Order-in-Appeal in so far as denial of Cenvat credit is concerned ~~cancelled~~ and allow the appeal filed by the manufacturer-assessee. The manufacturer-assessee shall be entitled for consequential relief as per law.

(Pronounced and dictated in the open Court)

(Anil G. Shakkarwar)
Member (Technical)

Patel/-

प्रमाणित प्रति / Certified True Copy
6.1.17
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