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

Dated: 30/12/2015

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/ 70120/2015 dated 17/12/2015

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.**

30/12/15

Asstt. Registrar/SPS

Application	Appeal	Name and Address of Appellant
	E/2069/2006	CCE, GHAZIABAD 202, WING A CGO COMPLEX-B KAMLA NEHRU NAGAR GHAZIABAD(UP)

Name and Address of Respondent: CORROSION ENGINEERS P LTD
PLOT NO 3/2, SITE-IV
INDUSTRIAL AREA
SAHIBABAD,GHAZIABAD
UP

Other Appellants and Respondents as per Annexure

Copy To

3Advocate(s) / Consultant(s): SH RAJESH CHIBBER,ADV
FA-9 KAVI NAGAR
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

30/12/15

Asstt. Registrar/SPS
Regional Bench, Allahabad

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
Old Red Building, 38 M.G. Marg, Civil Lines, Allahabad

DATE OF HEARING/DECISION : 17/12/2015.

Excise Appeal No. 2069 of 2006

[Arising out of the Order-in-Appeal No. 32/CE/GZB/2006 dated 20/03/2006 passed by The Commissioner (Appeals), Central Excise, Ghaziabad.]

For Approval and signature :
Hon'ble Shri Anil Choudhary, Member (Judicial)
Hon'ble Shri B. Ravichandran, Member (Technical)

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 would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	:	Yes
3.	Whether their Lordships wish to see the fair copy of the order?	:	Seen
4.	Whether order is to be circulated to the Department Authorities?	:	Yes

CCE, Ghaziabad — Appellant

Versus

M/s Corrosion Engineers (P) Ltd. — Respondent

Appearance

Shri D.S. Mann, Authorized Representative (DR) – for the appellant.

Shri Rajesh Chhibber, Advocate – for the Respondent.

CORAM : **Hon'ble Shri Anil Choudhary, Member (Judicial)**
Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No. 70120/2015 Dated : 17/12/2015

Per. B. Ravichandran :-

This appeal by Revenue is against order dated 20/03/2006 of Commissioner (Appeals), Ghaziabad. The respondents are engaged in the manufacture of Organic Chemicals liable to Central Excise duty. They are also availing Cenvat credit on inputs used by them. They have cleared certain inputs, on which credit has been availed, as such, on payment of duty at the rate applicable at the time of clearance in terms of Rule 3 (4) of Cenvat Credit Rules, 2002. Proceedings were initiated against them on the ground that they have paid lesser amount than the credit availed on such inputs. The Original Authority confirmed a demand of Rs. 45,665/- with equal penalty. On appeal, vide the impugned order, the Commissioner (Appeals) allowed the appeal and set aside the original order. Aggrieved by this order, the Revenue is before us.

2. The learned AR submits that the Board Circular dated 16/6/2005 should be read to mean that the duty credit taken on such goods should be reversed or paid back when they are cleared as such. The word used in Rule 3 (4) of Cenvat Credit Rules, 2002 is "such goods" and not "said goods". As such, the learned AR submits that the respondent paid applying lesser rate of duty which is not correct.

The learned Counsel for the respondent submits that the provisions of Rule 3 (4) of Cenvat Credit Rules, 2002 and the clarifications issued by the Board on 16/06/2005 does not provide for any doubt in this regard. The said Rule provides that when the goods are removed as such the manufacturer shall pay an amount equal to duty of excise which is leviable on such goods at the rate applicable to such goods on the date such removal and on the value determined for such goods in terms of Section 3/4/4A, as applicable.

4. We have heard both the sides and examined appeal records. We find the provision of sub-Rule (4) of Rule 3 and the subsequent clarifications of the Board are very clear. The amount of duty on the goods cleared as such on which Cenvat credit was availed earlier by the manufacturer will be governed by the said Rules. We do not find any reason to interpret "such goods" or "said goods" in this situation. The goods on which credit has been availed has been cleared as such and duty applicable on the date of such clearance has been paid. We find no ground to interfere with the impugned order. Accordingly the appeal filed by the Revenue is dismissed.

(Order dictated and pronounced in the open court.)

Sd/-

(Anil Choudhary)
Member (Judicial)

Sd/-

(B. Ravichandran)
Member (Technical)

PK

सत्यापित प्रति / Certified True Copy

19.1.16

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