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: 23/06/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70581-70582/2017-EX[DB] dated 13/06/2017

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/740/2008	**MARGRA INDUSTRIES LTD.** D-1, SECTOR-XI, NOIDA-201301
2	E/741/2008	**MARGRA INDUSTRIES LTD,** D-1, SECTOR-XI,NOIDA-201301
		Name and Address of Respondent
3		-C.C.E. NOIDA C-56/42, Sector-62, Noida-201307 -
4		-C.C.E. NOIDA C-56/42, Sector-62, Noida-201307 -

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Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s): SH KARTIKEYA NARAIN, AMICAUS CURIAE

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 Nos.E/740-741/2008-EX[DB]

(Arising out of Order-in-Appeal No. 127,128-CE/NOIDA/2007 dated 30/11/2007 passed by Commissioner of Central Excise & Customs (Appeals), Meerut-II)

Margra Industries Ltd., **Appellant**

Vs.

Commissioner of Central Excise, Noida **Respondent**

Appearance:

Shri Kartikeya Narain, Amicus Curiae (Advocate) for Appellant
Shri Mohammad Altaf, Assistant Commissioner (AR). for Respondent

CORAM:

Hon'ble Mr. Anil Choudhary, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 13/06/2017
Date of Decision : 13/06/2017

FINAL ORDER NOs-70581-70582/2017

Per: Anil G. Shakkarwar

Above stated two appeals are filed by the same appellant against Order-in-Appeal No. 127,128-CE/NOIDA/2007 dated 30/11/2007 passed by Commissioner of Central Excise & Customs (Appeals), Meerut-II and having the same issue involved, therefore, they are taken together for hearing.

2. Brief facts of the case are that in appeal No.E/740/2008 a show cause notice dated 04.12.2006 was issued demanding Central Excise duty amounting to Rs.53,830/- on the Marble slabs manufactured by

appellant contending that the manufacture of Marble slabs amounted to manufacture. In Appeal No. E/741/2008 similar demand was raised through the show cause notice dated 27.12.2005 wherein Central Excise duty demanded was Rs.1,07,726/- on similar ground. In both the cases the demands were confirmed. In both the cases appellant preferred appeal before Commissioner (Appeals) and in both the impugned Orders-in-Appeal, Commissioner (Appeals) did not interfere with the finding of original authority. Hence, appellant preferred appeal before this Tribunal.

3. The appellants are absent on call. This Tribunal is assisted by Shri Kartikeya Narain, Advocate as amicus-curiae. He has taken us through the reply to show cause notice submitted by the party wherein the appellant had submitted that prior to cutting, the Marble blocks are sized/dressed and the edges of the blocks are smoothened and they are squared by the wire sawing machine so that the block can be cut properly and that the squaring of an uneven/mis-shapen block to make it saw-able is a process anterior to cutting the blocks into slabs, so that the slabs have smooth edges for further use. He further submitted that the Hon'ble Supreme Court in the case of Aman Marble Industries Pvt. Ltd. reported at 2003 (157) ELT 393 (SC) has held that cutting of Marbles block into Marble slabs does not amounts to manufacture.

4. Heard the learned A.R. who supports the impugned Order-in-Appeal.

5. Heaving considered the rival contentions and on perusal of records we find that the ruling of Hon'ble Supreme Court in the case

of Aman Marbles Industries Pvt. Ltd. (supra) is squarely applicable in the present case. Therefore, we set aside both the Orders-in-Original and Orders-in-Appeal and allow both the appeals. The appellant shall be entitled for consequential relief, if any, in accordance with law. This Tribunal appreciates the assistance provided by Shri Kartikey Narayan, Advocate as Amicus Curiae.

(Dictated in Court)

-Sd/-
(ANIL CHOUDHARY)
Member (JUDICIAL)

-Sd/-
(ANIL G. SHAKKARWAR)
Member(TECHNICAL)

akp

प्रमाणित प्रति/Certified True Copy
04/07/2017
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