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: **21/07/2016**

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **A/70493-70496/2016-SM[BR]** dated **09/06/2016**

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section **01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.**

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	ST/51147051149/2015 &st/51150/2015	**Commissioner CUSTOMS Central EXCISE and SERVICE TAX-Noida** C-56/42...SECTOR 62, NOIDA,UTTAR PRADESH 201307
		Name and Address of Respondent
2		SAMSUNG INDIA ELECTRONICS PVT LTD TOWER-A 8TH, 9TH& 10TH FLOOR, C-28 & 29, SECTOR -62, NOIDA,U.P

Other Appellants and Respondents as per Annexure

Copy To

3Advocate(s) / Consultant(s):

V. Lakshmi Kumaran
5, JANGPURA EXTENTSION LINK
ROAD NEW DELHI-110014

4 Bar Association, CESTAT, Allahabad
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
14M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032
15 C.D.R. 16 Office Copy 17 Guard File

Asstt. Registrar

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, REGIONAL BENCH : ALLAHABAD

Single Member Bench

Appeal No. ST/51150/2015 (SM) with Appeal No. ST/51147/2015, ST/51148/2015, ST/51149/2015 (SM)

Date of Hearing/Decision: 03/11/2015

[Arising out of Order-in-Appeal No. S-I/MEERUT/NST/59/2014-15 dated 01.12.2014 passed by Commissioner (Appeals), Service Tax, NOIDA]

For approval and signature:

Hon'ble Shri Anil Choudhary, Judicial Member

1.	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3.	Whether their Lordships wish to see the fair copy of the order?	
4.	Whether order is to be circulated to the Department Authorities?	

CCE & ST NOIDA — Appellant

Vs.

Samsung India Electronic Pvt. Ltd — Respondent

Appearance:
Present for the Appellant: Shri H.M. Dixit (Assistant Commissioner) A.R.
Present for the Respondent: Shri Vivek Sharma, Advocate

Coram: **Hon'ble Shri Anil Choudhary, Judicial Member**

FINAL ORDER NO. 70493-70496/2016

Per: Anil Choudhary

These appeals are by Revenue against order of Commissioner Appeals, Meerut-I. The respondent assessee is a S.T.P.I. Unit, exporting its services under the classification 'Information Technology Software Services' under Section 65 (105) (zzzze) of the Finance Act, 1994. The respondent, unable to utilise the Cenvat credit taken on input services, files periodical refund claims. The dispute in these appeals is with regard to allowability as input service. The details are as follows :-

Appeal No.	51148/2015	51147/2015	51150/2015	51149/2015
Period	April to June 2012	July to Sept. 2012	Oct. To Dec. 2012	Jan. To Mar. 2013
1. Invoices pertain to service received at Unregistered Premises-Stellar Park (Renting of Immovable Property)	Rs. 4,35,690	Rs. 20,86,647	Rs. 30,73,463	Rs. 27,42,209
2. Invoices do not contain PAN based Regn. No. Of Provider	70,233			
3. C.H.A. Service are not input service	9,995			
4. Courier Services not input			132	2,222
5. Event Mgt. Service is not input				5,71,958
6. Renting of Auditorium – not input			18,787	

2. The first issue is with respect to availability of credit on input services received by assessee at its un-registered Premises – Stellar Park. The Ld. A.R. for Revenue urges that credit have been taken for the service under 'Renting of Immovable Property' for rent paid for the Stellar Park Premises, being unregistered with the department. The premises are not covered in the listed premises in their Centralised R.C. Thus, this premises cannot be said to be used for providing output service. Ld. Counsel for respondent assessee states that the Stellar Park Premises at Noida were taken on rent only in April 2012. Thereafter they had applied for inclusion of Stellar Park address in their centralised R.C. on 24.4.2013, and the same was approved and granted on 19.7.2013. Further it have been certified by the C.A. that invoices for output service rendered from Stellar Park, was raised from the Registered Office at Noida. That as per Rules 3 of CCE, 2004, there was no condition precedent, that input service have to be received at Registered Premises only of the output service provider. Further reliance is placed on the ruling of Hon'ble Karnataka High Court in mPortal India Wireless Solutions (P) Ltd Vs. CST 2012 (27) STR 134 (Kar) and of Hon'ble Bombay High Court in Deepak Fertilizers & Petrochemicals Corporation Limited Vs. CCE, 2013 (32) STR 532 (Bom.). Considering the rival contentions, following the rulings of Karnataka High Court and Bombay High Court (supra), this ground is rejected. It is held that a service provider can avail Cenvat credit of Service Tax paid on various input services, as long as the said services are used for providing output-taxable services.

3. That the next ground is whether input credit on invoices can be taken, not containing PAN based Registration No. of Service provider.

Upon hearing the parties, I find that this issue is settled in favour of respondent assessee by this Tribunal in Computer Science Corporation of India (P) Ltd. V/s Commissioner, 2015-TIOL-2123-Cestat-Del. Hence this ground is also rejected.

4. That the next ground is whether the respondent is entitled to Cenvat credit on CHA services availed for import of equipment/gadgets for research & development. Upon hearing the parties, I find that this issue is covered in favour of respondent assessee in CCE Vs. Rolex Rings (P) Ltd., 2008 (230) E.L.T. 569 (Tri.-Ahmd) and Rajdhani Crafts Vs. CCE 2013 (32) STR 607 (Tri.-Del). Hence this ground is also rejected.

5. That the next ground is availability of input credit on courier services received. I find this is also covered in favour of Respondent assessee in Commissioner Vs. Deloitte Tax Services India Private Limited, 2008 (11) STR 266 (Tri.-Bang.). Thus, this ground is also rejected.

6. The next ground is availability of input credit on Event Management Service' for Annual day function', upon hearing the parties I find that this issue is covered in favour of assessee in Delphi Automotive System P. Limited Vs. Commissioner, 2014 (36) STR 1089 (Tri.-Del.). Thus this ground is also rejected.

7. The next ground is whether 'Renting of auditorium Service' used for recruitment of employees, is eligible as input service. Upon hearing the parties I find that this issue is also covered in favour of respondent assessee in CST Vs. Mercedes Benz Research & Development India P

Aor

Limited, 2013 (30) STR 257 (Tri.-Bang). Even CBEC Circular No. 120/01/2010-ST provides that in case of assessee providing B.P.O./Call Centre Service, as is the case with this respondent, Services receive in relation to recruitment or training of employees are input services. Thus this ground is also rejected and decided in favour of respondent.

8. To sum-up, the appeals of the Revenue are dismissed. The respondent assessee is held eligible to take cenvat credit on the services in question and also eligible to Refund under Rule 5 of CCR, 2004, as exporter of service. The Adjudicating authority is directed to grant balance refund, if any, within 60 days of receipt of this order alongwith interest, as per Rules.

(Operative part of order was pronounced at the conclusion of hearing).

Sd/-
(Anil Choudhary)
MEMBER (Judicial)

(K. Gupta)

प्रमाणित प्रति / Certified True Copy
5.8
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