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: 23/03/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70274-70276/2017-SM[BR] dated 17/02/2017

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/986/2008	Gobind Sugar Mills Ltd Po Eira Estate Lakhmipur KHERI UP
2	E/987/2008	GOBIND SUGAR MILLS LTD. P.O.AIRA ESTATE,LAKHIMPUR KHERI (U.P.)
3 E/MISC/70299/2016, E/CROSS/317/2008	E/1396/2008	C.C.E, LUCKNOW 7-A, Ashok Marg, Lucknow.

Name and Address of Respondent

4 C.C.E. & S.T.-Lucknow
7-A...ASHOK MARG,
LUCKNOW,
UTTAR PRADESH-226001

5 -C.C.E. LUCKNOW
7-A, Ashok Marg, Lucknow.

6 GOVIND SUGAR MILLS
AIRA ESTATE,DISTT-
LAKHIMPUR KHERI (U.P.),

Other Appellants and Respondents as per Annexure

Copy To

7Advocate(s) / Consultant(s):

Rajesh chibber
FA-9, KAVI NAGAR,
GHAZIABAD,
UP

8 Bar Association, CESTAT, Allahabad

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

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

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

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

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

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

15 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

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

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

18 C.D.R. 19 Office Copy 20 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, REGIONAL BENCH : ALLAHABAD

Appeal Nos.E/986 & 987/2008, 1396/2008-EX[SM]
AND
CROSS Objection No.E/CROSS/317/2008
E/MISC/70299/2016-EX[SM]

Arising out of Order-in-Appeal Nos.42-CE/LKO/2008 dated 31.03.2008 & 37-CE/LKO/2008 18.03.2008 passed by Commissioner (Appeals) Customs, Central Excise & Service Tax, Lucknow.

M/s Govind Sugar Mills Ltd. (in Appeal No. E/986, 987/2008)
Commissioner of Central Excise & S.T., Lucknow (in Appeal No.1396/2008)

...APPELLANT(S)

VERSUS

Commissioner of Central Excise & S.T., Lucknow
M/s Govind Sugar Mills Ltd. (in Appeal No.1396/2008)

...RESPONDENT (S)

APPEARANCE

None for the Appellant (s)
Shri S.K. Singh, Deputy Commr. (AR) for the Department (s)

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)

DATE OF HEARING & PRONOUNCEMENT: 17.02.2017

FINAL ORDER NO.- 70214-70216/2017

Per Mr. Anil Choudhary :

The appeal of Revenue (Appeal No.1396/2008) is allowed to withdrawn under litigation policy as prayed by the Commissioner in E/MISC./70299/2016/EX.

Appeal Nos.E/986 & 987/2008

Heard learned AR and perused the records. The appellant is absent in spite of notice.

2. The issue in this appeal is regarding allowbility of Cenvat Credit on welding electrodes utilised for repair and maintenance in the factory of production. This is the second round of litigation. Earlier, this dispute between these very parties had come before this Tribunal

and this Tribunal remanded the matter to the Adjudicating Authority vide Final Order No.130-131/07-SM(BR) and 5/75-76/07 both dated 28.12.2006 to decide the matter afresh in the light of the ruling of Rajasthan High Court.

3. From perusal of the impugned Order-in-Appeal passed by the learned Commissioner, I find that the appellant had relied on the ruling of the Rajasthan High Court, Jaipur bench being order dated 08.08.2003 in DB Excise reference No.9/2002. I find that the learned Commissioner (Appeals) have held that the appellant is not entitled to Cenvat Credit on welding electrodes either as capital goods or as inputs used in repair and maintenance of plant and machinery in the factory of production. I hold that the order of the learned Commissioner is not tenable in view of the ruling of Hon'ble High Court, in the case of Ambuja Cement Ltd. wherein, it has been held that Cenvat Credit is allowable on the 'welding electrodes' used in the factory of production for repair and maintenance of plant and machinery. Accordingly, these appeals are allowed and the impugned order is set aside. The appellant will be entitled to consequential benefits, if any, in accordance with law.

(Dictated and Pronounced in the open Court)

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

Mishra

प्रमाणित प्रति / Certified True Copy
27/03/17
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