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: 26/05/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70522/2017-SM[BR] dated 12/05/2017

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/1104/2011	**ABHINAV STEELS (P) LTD.** A-18, A-19, SIDA INDUSTRIAL AREA, SATHARIYA, DISTT-JAUNPUR.
		Name and Address of Respondent
2		-C.C.E Allahabad 38,M.G.Marg, civil Lines, Allahabad

Copy To
3Advocate(s) / Consultant(s):

Ms, Stuti Saggi (Adv.) (ALLD)
102, MAHALAXMI ENCLAVE
(ADJ. INCOME TAX OFFICE),
STANLEY ROAD, CIVIL LINES,
ALLAHABAD (U.P.)-211001

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

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

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

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

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

14 C.D.R. 15 Office Copy ~~16 Guard File~~

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

REGIONAL BENCH : ALLAHABAD

COURT No. 1

APPEAL No.E/1104/2011-EX[SM]

(Arising out of Order-in-Appeal No. 04/CE/ALLD/2011 dated 31/01/2011 passed by Commissioner of Central Excise (Appeals), Allahabad)

M/s Abhinav Steels (P) Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Allahabad **Respondent**

Appearance:

Ms Stuti Saggi, Advocate for Appellant

Shri Pawan Kumar Singh, Supdt (AR), for Respondent

CORAM:

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

Date of Hearing : 12/05/2017

Date of Decision : 12/05/2017

FINAL ORDER NO.- 70522/2017

Per: Anil G. Shakkarwar

The present appeal is directed against Order-in-Appeal No. 04/CE/ALLD/2011 dated 31/01/2011 passed by Commissioner of Central Excise (Appeals), Allahabad.

2. Brief facts of the case are that the appellants are engaged in manufacture of M.S. Ingots, M.S. Square, M.S. Flate etc. They were also availing Cenvat credit facility during the period from July, 2007 to June, 2008. Appellants availed Cenvat credit of Central Excise duty paid on Angles, Sheets,

Bras, Shapes and Sections falling under Chapter 72, which were used for manufacture of base and foundation for installation of machines including the embedded parts of the base. It appeared to revenue that the Pillars and foundation of said goods manufactured by the appellant were neither the capital goods nor the final product and therefore Cenvat credit of Rs.40,70,448/- was not admissible to the appellant. Therefore, the appellant were issued with a show cause notice dated 19.02.2009 for denial of such Cenvat credit and recovery of the same. The said show cause notice was adjudicated through the Order-in-Original dated 19.02.2010 wherein the demand was confirmed and equal penalty was imposed. Aggrieved by the said order, appellant preferred appeal before Commissioner (Appeals). Learned Commissioner (Appeals) dismissed the appeal through the impugned Order-in-Appeal dated 31.01.2011. Aggrieved by the said order, appellant is before this Tribunal.

3. Heard the learned Counsel for appellant. She has submitted that the goods on which appellant has availed Cenvat credit in dispute are covered by explanation 2 to Rule 2(k) of Cenvat Credir Rules, which provides for treating such goods as inputs which are used in the manufacture of capital goods. She further relied on the decision of this Tribunal in the case of G.M.R. Industries Ltd. Vs Commissioner of Central Excise, Visakhapatnam-I reported at 2009 (241) ELT

388 (Tri.-Bang.). The Counsel further argued that it was held in the said case that M.S. Plates, M.S. Angles, M.S. Channels, M.S. Beams and Welding Electrodes received in the factory and used in the manufacture of fabrication of capital goods were eligible as inputs for the purpose of Cenvat credit.

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

5. Having considered the rival contentions, I find that the decision of this Tribunal in the said case of G.M.R. Industries Ltd. (supra) is squarely applicable in the present case. I therefore, allow the appeal and set aside the Order-in-Original and impugned Order-in-Appeal. The appellant shall be entitled for consequential relief, as per law.

(Dictated in Court)

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

akp

प्रमाणित प्रति/Cerified True Copy
14/06/2017
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