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: 31/01/2017

To

Appellant as per address in table below
Respondent as per address in table below

Final Order No. A/70104/2017-SM[BR] dated 06/01/2017

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/1140/2011	YASH PAPER LIMITED, DARSHAN NAGAR, FAIZABAD (U.P.)
		Name and Address of Respondent
2		-C.C.E Allahabad 38,M.G.Marg, civil Lines, Allahabad

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

**V. Lakshmi Kumaran, ALD
3/1A/3 OPP AUTO
SALES,Above the Office Of
Blue Dart/DHL Courier,
COLVIN ROAD, LOHIA
MARG ALLAHABAD-
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. I

APPEAL No. E/1140/2011-EX[SM]

(Arising out of Order-in-Appeal No. 10/CE/ALLD/2011 dated 31/01/2011 passed by Commissioner of Central Excise & Customs (Appeals), Allahabad)

M/s Yash Paper Limited **Appellant**

Vs.

Commissioner of Central Excise, Allahabad **Respondent**

Appearance:

Shri Atul Gupta, Advocate, &
Shri S. P. Ojha, Consultant, for Appellant
Shri D. K. Deb, Assistant Commissioner (AR), for Respondent

CORAM:

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)
Date of Hearing & Date of Decision : 06/01/2017
FINAL ORDER NO. 70104/2017

CUSTOMS EXCISE & SERVICES TAX APPELLATE

Per: Anil G. Shakkarwar

The present appeal filed by the appellant, M/s Yash Paper Limited against Order-in-Appeal No. 10/CE/ALLD/2011 dated 31/01/2011 passed by Commissioner of Central Excise & Customs (Appeals), Allahabad.

2. Brief facts of the case are that the appellants were engaged in the manufacture of Paper & Paperboard falling under Tariff Items No. 48043100, 48025490, 48025590 & 49025790 of the schedule to the Central Excise Tariff Act, 1985. They availed Cenvat credit of Rs.1,05,130/- on items as Channels, Beams, Angles etc. for the period from July, 2007

to July, 2008. It appeared to Revenue Cenvat credit of duty paid on said goods was not admissible to the appellants. The appellants issued with a Show Cause Notice No. V (30) Dem/Adj./Fzd/204/2008/1036 dated 27/02/2009 proposing to disallow the said Cenvat credit. The appellant submitted before the Original Authority that as per Explanation 2 to definition of inputs under Rule 2(K) of Cenvat Credit Rules, 2004, the goods used in the manufacture of capital goods are defined as inputs provided that such capital goods are used in the factory of manufacture. They have further submitted before the Original Authority that capital goods are defined under Rule 2(a) (A) of Cenvat Credit Rules, 2004 of said rules where Storage Tank has been defined as capital goods. They, further, submitted to the Original Authority that the said goods were used for strengthening the Storage Tank for storage of Caustic Lye in the Caustic Recovery Plant of Paper Factory. The Original Authority did not appreciate the argument putforth before it and confirmed the demand and imposed equal penalty. Aggrieved by the said order appellant preferred appeal before Commissioner (Appeals). The ld. Commissioner (Appeals) decided the appeal through said Order-in-Appeal No. 10/CE/ALLD/2011 dated 31/01/2011 wherein the ld. Commissioner (Appeals) upheld the Order-in-Original. Aggrieved by the said Order-in-Appeal appellant is before this Tribunal.

3. Heard the ld. Counsel for the appellant who has taken me through the definition of inputs and capital goods and the Installation Certificate dated 05/06/2010 available at Page 74 of the Appeal Paper Book and contended that it was certified that the items on which Capital goods was denied were used to increase the strength of the Storage Tanks which were used in the factory of manufacture for Caustic Lye in the Caustic Recovery Plant of Paper Factory.

4. Heard the ld. D. R. who has supported the impugned Order-in-Appeal.

5. Having considered the rival contentions and on perusal of records it is very clear that through Installation Certificate the items used on which Cenvat credit was taken were used for increasing the strength of Storage Tanks. Therefore, I hold that they were used in relation to the manufacture of capital goods and therefore as per definition of inputs and capital goods they were eligible for Cenvat credit. Therefore, I hold that the appellant were entitled for Cenvat credit of Rs. 1,05,130/-. I, therefore, allow the appeal and set aside the impugned Order-in-Appeal. The appellant shall be entitled for relief, as per law.

(Dictated and pronounced in Court)

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

Ansari

प्रमाणित प्रति / Certified True Copy
9.2.17
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