FAX : 0532-2400149

REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

To

Dated: 02/05/2017

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

Final Order No. A/70421/2017-EX[DB] dated 05/04/2017

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/1407/2008	**JINDAL PIPES LTD.** JINDAL NAGAR,HAPUR ROAD,GHAZIABAD.
		Name and Address of Respondent
2		-C.C.E. MEERUT II Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)

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

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

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

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

DIVISION BENCH

Appeal No. E/1407/2008-EX(DB)

Dated of Hearing/decision: 05/4/2017

[Arising out of Order-in-Appeal No. 51-CE/MRT-II/2008 dated 17.3.2008 passed by Commissioner (Appeals) Central Excise Meerut-II]

Jindal Pipes Ltd. — Appellant

Vs.

C.C.E. – Meerut-II — Respondent

Appearance:
Present for the Appellant: Shri Rajesh Chhibber, Advocate
Present for the Respondent: Shri Rajeev Ranjan (Joint Commissioner) A.R.

Coram: Hon'ble Shri Anil Choudhary, Member (Judicial)
Hon'ble Shri Anil G. Shakkarwar, Member (Technical)

FINAL ORDER NO. 70421/2017

Per: Anil Choudhary

The present appeal is filed by the appellant, M/s Jindal Pipes Ltd. against the Order-in-Appeal No. 51-CE/MRT-II/2008 dated 17.3.2008 passed by Commissioner (Appeals) Central Excise Meerut-II].

2. The brief facts of the case are that the appellant, M/s Jindal Pipes Ltd. is engaged in the manufacture of M.S. Pipes & Tubes of steel falling under Chapter 73 of the GTA and availing the Cenvat credit facility on inputs, input services and capital goods, the issue is–whether on the facts and circumstances of the case the appellants have rightly taken Cenvat credit on Goods Transport Agency Service (GTA) in

respect of outward transportation of the goods beyond the place of removal.

3. In this appeal the period in dispute is prior to January, 2005 to December, 2006 that is prior to the amendment in the definition in Rule 2 (l) of CCR, 2004 on which date in the definition, instead of the words "clearance of final products from the place of removal" the words "clearance of final products up to the place of removal" came to be substituted.

4. Heard the parties.

5. ~~I~~ we find that the issue herein have been considered in detail by Hon'ble Gujarat High Court in the case of **Commissioner of Central Excise Vs Philips Carbon Black Ltd.** reported at 2016 (44) S.T.R. 253 (Guj.). The Hon'ble High Court has decided the issue in favour of the assessee, by observing as follows:-

> *"21. We must, however, for our curiosity reconcile the expression "from the place of removal" occurring in the earlier part of the definition with words 'up to the place of removal' used in inclusive part of the definition. Counsel for the assessees submitted that when a manufacturer transports his finished products from the factory without clearance to any other place, such as go down, warehouse etc. from where it would be ultimately removed, such service is covered in the expression 'outward transportation up to the place of removal' since such place other than factory gate would be the place of removal. We do appreciate that this could be one of the areas of the application of the expression 'outward transportation up to the place of removal'. We are unable to see whether this could be the sole reason for using such expression by the Legislature.*
>
> *22. Be that as it may, we are of the opinion that the outward transport service used by the manufacturer for transportation of finished goods from the place of removal*

up to the premises of the purchaser is covered within the definition of "input service" provided in Rule 2(l) of the Cenvat Credit Rules, 2004."

6. Accordingly, following the law as explained by the Hon'ble High Court, we allow the appeal and set aside the impugned order. The appellant will be entitled to consequential benefits, in accordance with law.

(Dictated and pronounced in the open Court).

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

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

(K. Gupta)

प्रमाणित प्रति/Cerified True Copy
08/05/2017
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