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: 13/07/2017

To

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

Final Order No. A/70630/2017-EX[DB] dated 06/07/2017

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/1579/2007	UNITED CABLE INDUSTRIES A-14, Sector-4, Noida.
		Name and Address of Respondent
2		-C.C.E. NOIDA C-56/42, Sector-62, Noida-201307

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

S. D. Gaur
SB-108, SHASTRI NAGAR,
GHAZIABAD,
UTTAR PRADESH

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/1579/2007-EX[DB]

(Arising out of Order-in-Appeal No. 33/CE/APPL/NOIDA/2007 dated 30/03/2007 passed by Commissioner of Customs & Central Excise (Appeals), Noida)

M/s United Cable Industries **Appellant**

Vs.

Commissioner of Central Excise, Noida **Respondent**

Appearance:

Shri S. D. Gaur, Consultant, for Appellant
Shri Sandeep Kumar Singh, Deputy Commissioner (AR), for Respondent

CORAM:

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

Date of Hearing & Date of Decision : 06/07/2017

FINAL ORDER NO. 70630/2017

Per: Anil G. Shakkarwar

The present appeal filed by M/s United Cable Industries is directed against Order-in-Appeal No. 33/CE/APPL/NOIDA/2007 dated 30/03/2007 passed by Commissioner of Customs & Central Excise (Appeals), Noida.

2. The brief facts of the case are that the appellants were engaged in the manufacture of Electric Wires & Cables. The appellants used to procure raw materials and send them directly to the job workers under Job Work Challan and they were also taking Cenvat credit of duty paid on the inputs. It appeared to Revenue that the appellants were not entitled to

take Cenvat credit of duty paid on inputs unless the goods processed by the job workers were received in the factory of the appellant. Therefore, the appellants were issued with a Show Cause Notice dated 21/09/2005 for denial of Cenvat Credit of Rs.10,48,234/-. The said Show Cause Notice was adjudicated through Order-in-Original No. 12/Joint Commissioner/Noida/2006 dt.28/09/2006, wherein the Original Authority has denied the said Cenvat Credit of Rs.10,48,234/- and confirmed the demand of equal amount and imposed penalty of equal amount on the appellants. Further, the appellants were directed to pay interest of Rs.13,659/-. Aggrieved with the said order the appellants preferred appeal before Commissioner (Appeals). The ld. Commissioner (Appeals) decided the appeal through impugned Order-in-Appeal dated 30/03/2007 wherein he has held that the credit was taken prior to receipt of input and such taking of credit was against provisions of Rule 4 of Cenvat Credit Rules, 2002/2004 and therefore, he upheld the Order-in-Original dated 28/09/2006. Aggrieved by the said order the appellant is before this Tribunal.

3. The appellant has contended in the grounds of appeal that the Cenvat credit has been denied only on the ground of failure to follow the procedure and that it was an admitted fact that the inputs on which credit was taken were received in the factory and were used in the manufacture of final products and the final products was cleared on payment of

duty and that the ld. Commissioner (Appeals) has not disputed that the Cenvat credit was admissible but it was only held that appellant contravening the provisions of Rule 4 of Cenvat Credit Rules, 2002/2004. There are, further, facts on record that the required goods were directly sent to the job workers and were received after processing and were used in the manufacture of final products and final products were cleared on payment of duty.

4. Heard the ld. Counsel for the appellant, who has submitted that during the period of Modvat credit, there were instructions issued by CBEC that the inputs could be directly sent to the job workers and that admissibility of Cenvat credit is on the basis of provisions under Rule 3 of Cenvat Credit Rules, 2002/2004 and there are no allegations that the said provisions were violated by the appellant. He has relied on a ruling by Hon'ble High Court of Karnataka in the case of Venlon Polyester Firm Ltd. *Versus* Commissioner of Central Excise, Bangalore-III reported at 2010 (249) E.L.T. 495 (Karnataka). He has also relied on the final order of this Tribunal in the case of Commissioner of Central Excise, Chennai -IV *Versus* Hyundai Motors (I) Ltd. reported at 2015 (326) E.L.T. 344 (Tri. - Chennai) and submitted that in both the said cases, it has been held that Cenvat credit cannot be denied on the ground that the inputs were directly sent to the job workers.

5. Heard the ld. A. R. for Revenue, who has supported the impugned Order-in-Appeal dated 30/03/2007.

6. Having considered the rival contentions and on perusal of the facts on record, we find that it is settled principles of law that Cenvat credit cannot be denied for the reason that the inputs were directly sent to the job workers particularly when the inputs were received after processing and were brought into the factory and duty on the final product was paid. We, therefore, set aside the impugned Order-in-Appeal and allow the appeal. The appellant shall be entitled for consequential relief, as per law.

(Dictated and pronounced in Court)

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

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

Ansari

प्रमाणित प्रति/Certified True Copy
17/07/2017
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