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

Dated: 28/08/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70732/2016-EX[DB] dated 19/08/2016

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/32/2008	AMIT OILS LTD. A-37, SATHARIA INDUSTRIAL ESTATE, SATHARIA, JAUNPUR, UP
		Name and Address of Respondent
2		-C.C.E ALLAHABAD 38,M.G.MARG, CIVIL LINES, ALLAHABAD -

Copy To

3Advocate(s) / Consultant(s):

S. P. OJHA
299, BAGHAMBARI HOUSING SCHEME,
ALLAHPUR, ALLAHABAD,
UTTAR PRADESH

4 Additional Party's Name & Address :

5 Bar Association, CESTAT, Allahabad

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

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

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

9 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005
10 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15
11 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
12 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070
13 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38
14 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082
15 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032
16 C.D.R. 17 Office Copy 18 Guard File

Asstt. Registrar

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

Appeal No. : E/32/2008-EX[DB]

Arising out of O/O No. MP 9DEM-16 /2006) 18 of 2007 dated 10.10.2007 passed by Commissioner of Central Excise & Service Tax, Allahabad.

For approval and signature:

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

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1. Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982? : No
2. Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not? : Yes
3. Whether His Lordship wishes to see the fair copy of the Order? : Seen
4. Whether Order is to be circulated to the Departmental Authorities? : Yes

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Amit Oils Ltd. ...APPELLANT(S)

VERSUS

Commissioner of Central Excise, Allahabad. ...RESPONDENT(S)

APPEARANCE:
Shri S.P. Ojha, Consultant for the Appellant(s)
Shri Rajeev Ranjan , Joint Commissioner (AR), for the Department

CORAM:
HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

DATE OF HEARING & PRONOUNCEMENT : 19.08.2016
Final ORDER NO. 70732/2016

Per Mr. Anil Choudhary :

Heard the parties. The dispute in this appeal is that the appellant has taken Cenvat credit of Rs.95,750/- during the period March to July 2005 on common inputs being GTA service incurred for receiving of inputs which have been utilized for manufacture of both taxable and tax free output. Vide Show Cause Notice, the demand under Rule 6 (3) was proposed at Rs.1,61,31,308/- along with interest and also penalty. In response the appellant deposited the said amount of Cenvat credit of Rs.95,750/- along with interest of Rs.11,565/- on 21-04-2006 vide T.R. 6 Challan. The proposed demand was confirmed along with interest and penalty vide Order-in-Original dated 10-10-2007, passed by ld. Commissioner. Being aggrieved the appellant has preferred appeal before this Tribunal.

2. We find that the issue stands settled in view of the amendment to the Finance Act, 2010, wherein the 8th Schedule it has been provided that in such pending disputes under Rule 6 of Cenvat Credit Rules, 2004, the assessee is required to reverse or pay the proportionate Cenvat credit along with interest @ of 24 per cent per annum. Taking notice of the fact that the appellant has already reversed credit taken along with interest, which appears to be falling short of 24%, we allow this appeal and set aside the impugned order. We further direct the appellant/assessee to deposit the differential interest for the period they had taken the credit, that is from the date of credit up to the date of reversal by way of deposit, that is 21-04-2006, and file compliance report with the Adjudicating Authority along with

a copy of this order within a period of 30 days from the date of receipt of this order.

(Pronounced in the open Court)

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

Sd/-
(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

(Ansari)

प्रमाणित प्रति / Certified True Copy

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