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: 21/07/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **A/70498/2016-EX[DB] dated 03/06/2016**

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/2829/2006	**JUBILANT ORGANOSYS LIMITED** PLOT NO 1A,SECTOR-16A,NOIDA,DISTT-G.B.NAGAR(UP)
		Name and Address of Respondent
2		-C.C.E.NOIDA OFFICE OF COMMISSIONER OF CUSTOMS,CENTRAL EXCISE AND SERVICE TAX, C-56/42, SECTOR-62, NOIDA - 201307

Copy To

3 Advocate(s) / Consultant(s):

SH DEVENDRA SHARMA,ADV
G-86, SECTOR-63
NOIDA, GAUTAM BUDH
NAGAR201301

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

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No.E/2829/2006(DB)

(Arising out of Order-in-Appeal No. 98/CE/APPL/NOIDA/06 dated 29/06/2006 passed by Commissioner of Central Excise & Customs (Appeals), Noida)

For approval and signature:

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

1.	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
3.	Whether their Lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	Yes

M/s. Jubilant Organosys Ltd. — **Appellant**

Vs.

Commissioner of Central Excise, Noida — **Respondent**

Appearance:

Shri Devinder Sharma, Advocate — for Appellant
Shri Pawan Kumar Singh, Supdt (AR), — for Respondent

CORAM:

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

Date of Hearing : 03/06/2016
Date of Decision : 03/06/2016

Final ORDER NO. 70490/2016.......

Per: Anil G. Shakkarwar

Present appeal is filed by the appellant against Order-in-Appeal No. 98/CE/APPL/NOIDA/06 dated 29/06/2006.

2. The brief facts of the case are that the appellant has established research and ~~devolvement~~ development Centre at C-26, Sector-59, Noida to carryout research and development in the area of polymers, resins, adhesives, bulk drugs and drug intermediates. On 05.09.2003 appellant submitted an application to Revenue claiming exemption from Excise duty and registration under Central Excise Law, stating that they are eligible for exemption under the Notification No. 167/71-CE dated 11/09/1971. Subsequently, there was exchange of letters between revenue and appellant. Deputy Commissioner of Central Excise Division-II, Noida through his letter C. No. V (30)ST/N-II/410/05 dated 16.03.06 informed the appellant that since the appellants were carrying out research for purely commercial consideration, they are not eligible for exemption under the said Notification No. 167/71-CE and directed the appellant to obtain Central Excise registration and pay Central Excise Duty on all clearance made from said research and development centre. Challenging the said letter dated 16.03.2006 appellant preferred an appeal before Commissioner (Appeals) enclosing a copy of said Notification No. 167/71 and certificate dated 18.12.2003 issued by

Department of Scientific and Industrial Research, Ministry of Science & Technology, New Delhi, certifying that said R&D unit was accorded recognition as In-House R&D unit. Ld. Commissioner (Appeals) through the impugned order has held that since the appellants were carrying out research in their said unit for purely commercial consideration, they were not eligible for benefit of said Notification No. 167/71-CE.

3. Aggrieved by the said Order-in-Appeal dated 29.06.2006 appellant is before us. The ground of appeal ~~intre-ilea~~ interalia is that the said notification exempts all excisable goods produced in a technical, educational and research institute during the course of imparting technical training of an academic or vocational nature or carrying out experiments or research and that the appellant were carrying out research and the department of Scientific and Industrial ~~of~~ research have granted the appellant a recognition certificate and recognized the appellant as In-House R&D unit. They have prayed to set aside the impugned Order-in-Appeal.

4. The learned counsel for the appellant reiterated their ground in the grounds of appeal.

5. The Learned A.R. reiterated the contents of impugned order.

6. We have taken into consideration the rival contentions. The said Notification No.167/71-CE dated 11.09.1971 provides for full exemption to all excisable goods produced in a research Institute during the course of carrying out research. The condition of the said notification is that the Assistant Commissioner of Central Excise is

satisfied that the goods produced in such research institute are produced during the course of carrying out research. It further provided that further condition for availing notification is that the manufacturer has to produce such certificate as may be required by said Assistant Commissioner of Central Excise for verifying that the goods have been produced during the course of carrying out research. We have also perused the copy of certificate submitted by the appellant. The said certificate is in the form of letter issued by authority in the Ministry of Science and Technology, Department of Scientific and Industrial Research, New Delhi on 18th December, 2003 referring to the subject of recognition of appellant's In-House R&D unit by department of Scientific and Industrial Research and informs that it has been decided to accord recognition to the In-House R&D unit of appellant's firm at C-26, Sector-59, Noida. We find that the said certificate is sufficient evidence to establish that the goods produced by the appellant are produced during the course of carrying out research. We, therefore, set aside the impugned order and allow the appeal.

(Dictated in Court)

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

-Sd-
(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

akp

प्रमाणित प्रति / Certified True Copy
5.8
सहायक पंजीकार / Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण / (C.E.S.T.A.T.)
... मार्ग, इलाहाबाद-211001
... ALLAHABAD-211001