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: 13/12/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71126-71127/2016-EX[DB] dated 02/12/2016

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(I) of the **Central Excise and Salt Act, 1944.**

**Asstt. Registrar**

| Application | Appeal | Name and Address of Appellant |
|---|---|---|
| 1 | E/2852/2009 | **V.V.S. CONCAST LTD.**<br>B-48, 49 & 50, UPSIDC, INDUSTRIAL AREA,<br>MALWAN, DISTT. FATEHPUR. |
| 2 | E/2853/2009 | **SHRI SANJAY AGARWAL, AUTHORISED SIGNATORY OF**<br>M/S V.V.S. CONCAST LTD.<br>B-48, 49 & 50, UPSIDC, INDUSTRIAL AREA,<br>MALWAN, DISTT. FATEHPUR. |

Name and Address of Respondent

3 -C.C.E. LUCKNOW
7-A, Ashok Marg, Lucknow.

4 -C.C.E. LUCKNOW
7-A, Ashok Marg,
Lucknow.

Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s):

AMIT AWASTHI
H-1, IST FLOOR, RADHEY APPARTMENT,
PLOT NO. 7/116A, SWAROOP NAGAR,
KANPUR,UTTAR PRADESH
208002

6 Bar Association, CESTAT, Allahabad
7 Director Publications, Customs, Excise, I.P. Estate, Delhi
8 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

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

10 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

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

**COURT-I**

**Appeal Nos.E/2852 & 2853/2009-EX[DB]**

Arising out of Order-in-Original No.07/Commissioner//LKO/CX/2009 dated 30.06.2009 passed by Commissioner (Appeals) Customs & Central Excise, Lucknow.

M/s V.V.S. Concast Ltd.
Shri Sanjay Agawal, Authorized Signatory of

...APPELLANT(S)

**VERSUS**

Commissioner of Central Excise, Lucknow

...RESPONDENT (S)

**APPEARANCE**

Shri Amit Awasthi, Advocate for the Appellant (s)
Shri Rajeev Ranjan, Joint Commr. (AR) for the Department (s)

**CORAM:**

**HON'BLE SHRI JUSTICE DR. SATISH CHANDRA, PRESIDENT**
**HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)**

DATE OF HEARING & PRONOUNCEMENT : 02.12.2016

FINAL ORDER Nos. 71126 - 71127 / 2016

**Per Justice (Dr.) Satish Chandra :**

The present appeal is filed by the Appellant-assessee against the impugned Order-in-Original No.07/Commissioner//LKO/CX/2009 dated 30.06.2009.

2. The brief facts of the case are that appellants-assessees are involved in the manufacture of Wire Rod, M.S. Wire, CTD Bars & Flats. The assessee had procured the raw material through M/s M.K. Steels Pvt. Ltd. The said raw materials were received by assessee in his factory under the cover of form 31 issued by the Trade Tax Department. Later, it was found that M/s. M.K. Steels Pvt. Ltd. has issued the same invoices in number of cases from Kolkata. An

investigation was carried out pertaining to various assessee's. In case of another assessee, the matter has travelled up to the Hon'ble jurisdictional High Court. The Hon'ble Jurisdiction High Court in the case of Commissioner of Central Excise, Customs & Service Tax Vs Juhi Alloys 2014 (302) E.L.T. 487 (All.) has observed that:-

"the assessee has taken reasonable steps to insure that the inputs in respect of which he has taken the Cenvat credit are goods on which the appropriate duty of excise, as indicated in the documents accompanying the goods, has been paid. Admittedly, in the present case, the assessee was a bona fide purchaser of the goods for a price, which included the duty element and payment was made by cheque. The assessee had received the inputs which were entered the statutory records maintained by the assessee The goods where demonstrated to have travelled to the premises of the assesee under the cover of Form 31 issued by the Trade Tax Department, and the ledger account as well as the statutory records establish the receipt of the goods. In such a situation, It would be impractical to require the assessee to go behind the records maintained by the first stage dealer. The assessee, in the present case, was found to have duly acted with all reasonable diligence in its dealings with the first stage dealer."

3. During the course of argument, both parties have agreed that the issue is squarely covered by the earlier decision of this Tribunal as well as by the ratio laid down by the jurisdictional High Court (*supra*).

4. By considering the totality of the facts and circumstances of the case, we set aside the impugned order.

5. In the result, both the appeals are allowed, with consequential relief.

-Sd-
(Anil G. Shakkarwar)
Member (Technical)

-Sd-
(Justice Dr. Satish Chandra)
President

Mishra

प्रमाणित प्रति / Certified True Copy
22.12
सहायक पंजीकार / Asstt. Registrar
सीमाशुल्क, उत्पाद शुल्क व सेवा कर
अपील अधिकरण / (C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001