FAX : 0532-2400149

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

Dated: 20/09/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70827/2016-EX[DB] dated 09/09/2016

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/2990/2007	BPL LIMITED BPL TOWERS, 13, KASTURBA ROAD, BANGALORE.
		Name and Address of Respondent
2		-C.C.E. NOIDA C-56/42, Sector-62, Noida-201307

Copy To

3 Advocate(s) / Consultant(s): SH V.L.KUMARAN,ADV
5, JANGPURA EXTENSION
LINK ROAD, NEW DELHI-14

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. 2

APPEAL No. E/2990/2007-EX[SM]

(Arising out of Order-in-Appeal No.92-CE/NOIDA/2007 dated 29/08/2007 passed by Commissioner of Central Excise & Customs (Appeals), Noida.)

For approval and signature:

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

BPL Limited **Appellant**

Vs.

Commissioner of Central Excise, Noida **Respondent**

Appearance:

Shri Hrishikesh, Advocate, for Appellant
Shri Rajeev Ranjan, Joint Commissioner (AR), for Respondent

CORAM:

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

Date of Hearing & Date of Decision : 09/09/2016

FINAL ORDER NO.....70827/2016......

CUSTOMS EXCISE & SERVICES TAX APPELLATE TRIBUNAL
सत्यमेव जयते

Per: Anil G. Shakkarwar

The appellant, M/s BPL Limited, is in appeal against Order-in-Appeal No. 92-CE/Noida/2007 dated 29-08-2007, passed by the Commissioner of Central Excise, (Appeals), Meerut-II (Noida).

2. The brief facts of the case that the appellants were engaged in the manufacture of Colour Television Sets and availed Cenvat facility of duty paid on inputs. They received Colour Picture Tubes (CPT) from M/s Samtel Color Ltd., Ghaziabad and M/s BPL Display Devices Ltd., Sahibabad and availed credit of duty of duty paid on such inputs. After the availment of credit by issue debit notes the prices of the CPT's were negotiated and reduced by issue of debit notes. It appeared to Revenue that proportionately Cenvat credit should also be disallowed. Therefore, appellants were issued with a Show Cause Notice dated 29-07-2005 for the period from July, 2000 to March, 2005 proposing to recover Cenvat credit amounting to Rs.46,91,242/-. There was proposal to impose penalty. The appellant contended before the Original Authority that there is no provision in the Cenvat Credit Rules to vary the credit even if it was found that the supplier paid more duty, the duty paid on inputs by the supplier vide excise invoices can be availed as credit as long as no refund of Excise duty claimed by the supplier on the account of prices reduction. The Original Authority did not appreciated the arguments and disallowed Cenvat credit amounting to

Rs.46,91,242/- and impose penalty through Order-in-Original No. 15/Additional Commissioner/Noida/2006 dated 21-09-2006. The appellant preferred appeal against said Order-in-Original which was decided through Order-in-Appeal No. 92-CE/Noida/2007 dated 29-08-2007, wherein the ld. Commissioner (Appeals) rejected the said appeal. Being aggrieved the appellant challenging the said Order-in-Appeal is before this Tribunal.

3. The ld. Counsel for the appellant has argued that C.B.E.C. issued a Circular No. 877/15/2008 dated 17-11-2008 wherein it has been clarified that when the credit or debit notes are issued duty paid on inputs does not change therefore, it will not affect the admissible Cenvat credit. The issue is covered by Final Order No. E/70772-70783/2016-EX[DB] dated 16-08-2016 passed by this Tribunal wherein under similar circumstances it was held that Cenvat credit of duty paid on inputs need not be recovered when the assessable value of input is changed subsequent to issue of debit notes or credit notes, but not the duty paid on inputs.

4. The ld. D.R. had agreed that the facts of the case are similar to the facts in the case for which said Final Order No. E/70772-70783/2016-EX[DB] dated 16-08-2016 was passed.

5. I have taken the submissions of both sides into consideration. I find that the issue is already settled through above stated Final Order dated 16-08-2016 and the said Final

Order is squarely covering the issue involved in the present appeal. Therefore, I allow the appeal and set aside the impugned Order-in-Original & Order-in-Appeal and hold that the appellant shall be entitled for consequential benefits, if any, in accordance with law.

(Dictated and pronounced in Court)

-Sd/-

(ANIL G. SHAKKARWAR)
MEMBER (TECHNICAL)

Ansari

प्रमाणित प्रति / Certified True Copy
14.10
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