FAX : 0532-2408149 REGISTERED / AD

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

Dated: 01/11/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71012/2016-SM[BR] dated 19/09/2016

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/348/2005	GOBIND SUGAR MILLS LTD. AIRA, DISTT-LAKHIMPUR KHERI (U.P)
		Name and Address of Respondent
2		-C.C.E. LUCKNOW 7-A, ASHOK MARG, LUCKNOW.

Copy To

3Advocate(s) / Consultant(s):

BIPIN GARG
B-1/1289, A - VASANT KUNJ,
NEW DELHI

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

23-11-16

ISSUED ON

SIGN. (DESPATCH SECTION)
CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
38, M. G. MARG, ALLAHABAD-211001.

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

Appeal No. E/348/2005-EX[SM]

Arising out of Order-in-Appeal No. 364-CE/2004 dated 29.10.2004 passed by Commissioner (Appeals), Customs and Central Excise and Service Tax, Lucknow.

For approval and signature:

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

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

Gobind Sugar Mills Ltd. ...APPELLANT

VERSUS

C.C.E., Lucknow ...RESPONDENT

APPEARANCE

Shri Mayank Garg, Advocate for the Appellant
Shri Pawan Kumar Singh, Supdt. (A.R.) for the Department

CORAM:

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

DATE OF HEARING & PRONOUNCEMENT : 19. 09. 2016

Final ORDER NO. 71012/2016

Per Mr. Anil Choudhary :

The appellant-assessee is in appeal against Order-in-Appeal dated 29/10/2004 whereby Cenvat credit taken on certain items of iron and steel etc. have been disallowed.

2. The brief facts are that, the appellant is a manufacturer of sugar and molasses. During the month of December, 1997, the appellant had availed modvat credit on various items which have been received in the factory. Some of which were received prior to 23rd July, 1996. Cenvat credit on items like M.S. Structures, M.S. Plate, Steel Structures, etc. have been disallowed on the ground that these are part of supporting structures and as such Cenvat credit is not allowable. The learned counsel for the assessee have urges that the credit of these items are no longer *res-integra* and the same have been decided in favour of the assessee by Hon'ble Madras High Court in the case of India Cement Ltd. So far credit on the Gantry, Rail, Girder, Bracket, Plate, Buffer etc. are concerned, the same are parts of the Crane and accordingly are admissible as components of capital goods. Further, he relies on the ruling of this Tribunal in the case of ***Crystal Cable Industries Ltd. vs Commissioner of Central Excise 2000 (124) E.L.T. 1117*** wherein Cenvat credit on items being M.S. Plates, R.S. Joists and Chequered Plates used by assessee for making Ganting girder, Rail and DLS angles etc. was held to be eligible for Cenvat credit. So far Cenvat credit on plastic spray cluster is concerned, the assessee urges that these item are utilized for cooling of water for industrial purposes. So far the aluminum coil is concern the same have been utilized for cladding of boiler in order to avoid heat loss, etc. which

increases the overall efficiency and output. So far Wire Rope Resistant Box and Expansion joint are concern, the same are part of mill house, Crane etc. and accordingly Cenvat credit is allowable.

3. The learned A.R. relies on the impugned order

4. Having considered the rival contentions, I find that all items used in supporting structure and foundation etc. of machinery and or staging structures are allowable as held by Hon'ble Madras High Court in the case of India Cement Ltd. Further, the Plastics Spray Cluster is held as capital assets being utilized for cooling of water for industrial purposes. Aluminum coil, which is mainly used for cladding of the boiler, is also ~~liable~~ allowable as the ac~~ne~~cessary of the boiler or machinery. Similarly, Wire Rope Resistance Box and Expansion Joint are admissible as parts of plant and machinery. Accordingly, I hold that on all the disputed items in question Cenvat credit is allowable. Accordingly, the appeal is allowed with consequential benefit to the appellant. The impugned order is set aside so far it has disallowed the Cenvat credit to the appellant.

(Order was dictated in the open Court)

Sd/-

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

patel/-

True Copy

6.11

Registrar

A.T.)

211001

38, M. G. MARG, ...ABAD-211001