REGISTERED / AD

FAX : 0532-2400149

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

Dated: 26/12/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71154/2016-SM[BR] dated 01/12/2016

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/CROSS/248/2010	E/3100/2010	CCE KANPUR 117/7, SARVODAYA NAGAR, KANPUR 208005.
		Name and Address of Respondent
2		GAIL INDIA LTD. PATA, DIBIAPUR, AURAIYA. (U.P.),,

Copy To

3 Advocate(s) / Consultant(s): SH S.C.KAMRA,ADV
B-2/210(BASEMENT),
SAFDARJUNG ENCLAVE
NEW DELHI-29

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

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. 2

APPEAL No. E/3100/2010-EX[SM] With
CROSS Objection No. E/CROSS/248/2010

(Arising out of Order-in-Appeal No. 382-CE/APPL/KNP/2010 dated 23/07/2010 passed by Commissioner of Customs Central Excise & (Appeals), Kanpur)

For approval and signature:

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

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

Commissioner of Central Excise, Kanpur — **Appellant**

Vs.

M/s Gail India Ltd. — **Respondent**

Appearance:

Shri D.K. Deb, Assistant Commissioner, (AR), for Appellant
Shri S.C. Kamra, Advocate & Kartikeya Narain, Advocate for Respondent

CORAM:

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

Date of Hearing & Date of Decision: 01/12/2016

FINAL ORDER NO...71154/2016........

Per: Anil Choudhary

The present appeal is filed by Revenue challenging Order-in-Appeal No. 382-CE/APPL/KNP/2010 dated 23/07/2010 passed by Commissioner of Customs Central Excise & (Appeals), Kanpur.

2. The issue in this appeal is whether M/s Gail India Ltd. are entitled to Cenvat credit on security services received for taking care of their residential colony/township.

3. A Show Cause Notice, dated 17/07/2009, was issued as it appeared to Revenue that the respondent-assessee are engaged in manufacturer of HDPE/LLDPE, LPG and various other petro-chemical products, located at Pata, District Auraiya (UP), India, is not entitled to Cenvat credit on the security services received for taking care of its residential colony/township, which is located near to the factory and the same have been constructed and/or set up by the respondent-assessee for providing residence to its employees, in order to ensure that the workers and other personnel are available to facilitate production of dutiable products. It was proposed to disallow Cenvat credit of Rs.19,67,016/- along with some other input services with further proposal to appropriate the amount of Rs.19,67,016/-, already reversed under protest by the respondent-assessee on 29/12/2008 & 28/03/2009 and further penalty was also proposed. The Show Cause Notice was adjudicated on contest and the amount of Rs.19,67,016/- was disallowed and demanded

along with equal penalty and the same was also appropriated from the pre-deposit already made under protest. Further, equal amount of penalty was imposed under Rule 25 of Central Excise Rules, 2002 read with Section 11AC of the Act with further penalty of Rs.2,000/- under Rule 15(3) of Cenvat Credit Rules, 2004. Being aggrieved the respondent-assessee preferred appeal before the ld. Commissioner (Appeals) who vide the impugned order was pleased to allow the appeal observing that, the definition of input services is very wide, it not only includes services used in the manufacture of final products but also the services used in relation to factory premises activities and which are required to run day-to-day business, leading to smooth manufacturing and clearance of excisable goods. That the definition of 'input service' as given in Rule 2(1) of Cenvat Credit Rules, 2004 also includes services which are used by manufacturer in relation to manufacture of dutiable goods.

4. Heard the parties and perused the grounds of appeal.

5. Having considered the rival contentions it is an admitted fact that the residential colony/township is located at a remote place, where no municipal services are available. Further it is admitted fact that, it is an industrial township set up by the respondent-assessee so that trained manpower is available to run their plant for production of dutiable output. Accordingly, I find as the said security services qualify that input service under Rule 2(1) of Cenvat Credit

Rules, 2004 being the service utilized by the manufacturer in relation to manufacture of dutiable output. Accordingly, there is no impropriety in the impugned Order-in-Appeal. The appeal of Revenue, is dismissed & the Cross Objection stands disposed for statistical purposes. The respondent-assessee will be entitled to refund or re-credit of the duty reversed under protest with interest as per rules..

(Dictated and pronounced in Court)

Sd/-

(Anil Choudhary)
Member (Judicial)

Ansari

प्रमाणित प्रति / Certified True Copy

28.12

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