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: 18/10/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70979/2016-SM[BR] dated 07/10/2016

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/3179/2007	EITEK CIRCUITS E-55, 56 UPSIDC INDL. AREA, MASURI-GULAWTHI ROAD, DEHRA, DISTT. GHAZIABAD
		Name and Address of Respondent
2		-C.C.E. MEERUT II Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)

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

27/10/16

ISSUED ON

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

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

APPEAL No. E/3179/2007-EX[SM]

(Arising out of Order-in-Appeal No. 212-CE/MRT-II/2005 dated 19/09/2007 passed by Commissioner of Central Excise & Customs (Appeals), Meerut-II)

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

M/s Eltek Circuits **Appellant**

Vs.

Commissioner of Central Excise, Meerut-II **Respondent**

Appearance:

Shri Mayank Garg, Advocate, for Appellant
Shri Pawan Kumar Singh, Superintendent (AR), for Respondent

CORAM:

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

Date of Hearing & Date of Decision: 07/10/2016

FINAL ORDER NO...70979/2016....

Per: Anil Choudhary

The present appeal is filed by the appellant, M/s Eltek Circuits, against Order-in-Appeal No. 212-CE/MRT-II/2005 dated 19/09/2007 passed by Commissioner of Central Excise & Customs (Appeals), Meerut-II.

2. The issue in this appeal by the appellant - manufacturer of Printed Circuit goods etc. is, on opting for full exemption from payment of duty under Notification No. 8/2003 with effect from 01-04-2003, whether are required to reverse any amount under the fact that the unutilized balance in the Cenvat credit was nil as on 31-03-2003

3. Heard the parties.

4. Having considered the rival contentions, I find that Rule 9(2) of Cenvat Credit Rules, 2002 which is para-materia to Rule 11(2) of Cenvat Credit Rules, 2004 provides that a manufacturer who opts for exemption from whole of the duty of excise leviable on the goods manufactured by him, under notification based on the value or quantity of clearance in a financial year, and who has been taking Cenvat credit on inputs before such option is exercised, shall be required to pay an amount equivalent to the Cenvat credit, if any, allowed to him in respect of inputs lying in stock or in process or contained in final products lying in stock on the date when such option is exercised and after deducting the said amount from the balance, if any, still remaining, shall lapse and shall not be allowed to be utilized for payment of duty on any

excisable goods, whether cleared for home consumption or for export.

5. On a careful reading of the Rule in question, I find that it is applicable only in case an assessee has got unutilized Cenvat credit balance, on the record date, when he opts to avail exemption. Admittedly in the facts of the present case the Cenvat credit balance was nil as on 31-03-2003. Accordingly, I hold that no amount was required to be reversed or paid under the provisions of Rule 9(2) of Cenvat Credit Rules, 2002 which is equivalent to the provisions under Rule 11(2) of Cenvat Credit Rules, 2004. Accordingly this appeal is allowed and the impugned order is set aside. The appellant is entitled to consequential benefits, if any, in accordance with law.

(Dictated and pronounced in Court)

Sd/-
(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

Ansari

प्रमाणित प्रति / Certified True Copy
26.10.16
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