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

Dated: 05/01/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71204/2016-SM[BR] dated 30/12/2016

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.

Application	Appeal	Name and Address of Appellant
1	E/414/2009	APOLLO PIPES PVT. LTD. D-20, INDUSTRIAL AREA, SIKANDRABAD, DISTT. BULANDSHAHR, (U.P.)
		Name and Address of Respondent
2		-C.C.E. NOIDA C-56/42, Sector-62, Noida-201307

Copy To
3Advocate(s) / Consultant(s):

Rajesh chibber
FA-9, KAVI NAGAR,
GHAZIABAD,
UP

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 AND SERVICE TAX APPELLATE TRIBUNAL, REGIONAL BENCH : ALLAHABAD

Appeal No. : E/414/2009-EX[SM]

Arising out of OIA No. 136-CE/APPL/NOIDA/2008 dated 19.11.2008 passed by Commissioner (Appeals), Customs & Central Excise, Meerut-II (NOIDA).

M/s Apollo Pipes Pvt. Ltd. ...APPELLANT

VERSUS

Commissioner of Central Excise–Noida ...RESPONDENT

APPEARANCE

Shri Rajesh Chibber, Advocate for the appellant.
Shri D.K. Deb, Asstt. Commr. (A.R.) for the Department

CORAM:

HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

DATE OF HEARING & PRONOUNCEMENT : 30. 12. 2016

FINAL ORDER NO. 71204/2016

Per Mr. Anil G. Shakkarwar :

The present appeal is filed against the Order-in-Appeal No. 136-CE/APPL/NOIDA/2008 dated 19.11.2008 passed by Commissioner (Appeals), Customs & Central Excise, Meerut-II (NOIDA).

2. The brief facts of the case are that, the appellants are engaged in the manufacture of Tubes & Pipes of Iron & Steel. They were also availing facility of Cenvat credit. It was alleged by Revenue that appellants took Cenvat credit of service tax paid on

transportation of goods upto the place of removal, therefore show cause notice dated 29.09.2008 was issued for recovery of Cenvat credit of Rs. 35,624/- availed on service tax paid on transportation of goods i.e. outward transportation beyond the factory upto the place of removal. The said show cause notice was adjudicated through Order-in-Original dated 27.06.2008. The Original Authority has confirmed the demand. The appellant preferred appeal before Commissioner (Appeals). The learned Commissioner (Appeals) decided the appeal through the impugned Order-in-Appeal dated 19.11.2008. The learned Commissioner (Appeals) upheld the said Order-in-Original. Aggrieved by the said order, the appellant is before this Tribunal.

3. Heard the learned counsel for the appellant. He has submitted that the issue is no more *res-integra* and it has been settled that before 01.04.2008 credit of service tax paid on transportation on goods from factory upto the place of removal have been allowed and he has submitted that it has so been hold by this Tribunal in the case of ***Palco Metals Ltd. vs. Commissioner of C.Ex., Ahmedabad*** reported at ***2012(26) S.T.R. 429(Tri. – Ahmd.)*** and in the case of ***Krishna Barrels P. Ltd. vs. C.C.e., Cus. (Adjudication), Vadodara-II*** reported at ***2015(40) S.T.R. 797 (Tri. –Ahmd.)***.

4. Learned D.R. has supported the impugned Order-in-Appeal.

5. Having considered the rival contentions, I find that this Tribunal has taken consistent view that Cenvat credit of Service tax

paid on outward transportation of the goods from the factory to the place of removal prior to 01.04.2008 is admissible. I find that both the Final Orders of this Tribunal are squarely applicable in the present case. I, therefore, allow the appeal. The appellant shall be entitled for consequential relief.

(Pronounced and dictated in the open Court)

(Anil G. Shakkarwar)
Member (Technical)

Patel/-

प्रमाणित प्रति / Certified True Copy
6.1.17
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