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

Dated: 28/09/2016

To

Appellant as per address in table below
Respondent as per address in table below

Final Order No. A/70886/2016-SM[BR] dated 23/09/2016

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/CROSS/178/2008	E/565/2008	CCE ALLAHABAD 38,M.G.MARG, CIVIL LINES, ALLAHABAD
			Name and Address of Respondent
2			ITI LTD. MANKAPUR, GONDA (U.P.),,

Copy To

3 Advocate(s) / Consultant(s): SH S.P.OJHA,CONST
299, BAGHAMBARI HOUSING SCHEME
ALLAHPUR, ALLAHABAD.

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 AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

CROSS Application No.E/CROSS/178/2008
IN
Appeal No.E/565/2008-EX[SM]

Arising out of Order-in-Appeal No.170/CE/ALLD/2007 dated 30.08.2007 passed by Commissioner (Appeals) Customs & Central Excise, Allahabad.

For approval and signature:

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

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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

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Commissioner of Central Excise, Allahabad

...APPELLANT(S)

VERSUS

ITI Ltd.

...RESPONDENT (S)

APPEARANCE:

Shri Rajeev Ranjan Jt. Commissioner, (A.R.) for the Department
Shri S.P. Ojha, Consultant for the Respondent (s)

CORAM:

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

DATE OF HEARING & PRONOUNCEMENT : 23.09.2016

FINAL ORDER NO.- 70886/2016

Per Mr. Anil G. Shakkarwar :

This appeal is filed by the Revenue against Order-in-Appeal No.170/CE/ALLD/2007 dated 30.08.2007 through which Ld. Commissioner (Appeals) has remanded the matter back to the Original Authority with directions to follow the instructions of this Tribunal and re-adjudicate the matter.

2. The brief facts of the case are that the respondent received capital goods during the period from April, 1994 to July, 1995, involving Modvat Credit of Rs.46,11,612/-. The jurisdictional Assistant Commissioner passed an order holding that the request of the respondent to allow said credit, could not be conceded as the respondent could not produced any reason regarding the relaxation of time period for filing declaration. Thereafter, the respondent filed appeal before Ld. Commissioner (Appeals) and revised the claim of Modvat Credit to Rs.43,92,854.95/-. Ld. Commissioner (Appeal) upheld the order of Assistant Commissioner. Respondent preferred an appeal before this Tribunal. This Tribunal remanded the matter to Original Authority for deciding the issue in the light of provisions of Rule 57T (13) and ratio laid down by the larger Bench in the case of Kamakhya Steel (p) Ltd. Vs. Commissioner reported at 2000 (121) E.L.T.-247 as well as in JBM Tools Vs. C.C.E., Pune, reported at 2002 (144) ELT-561. The original Authority again disallowed the said

credit. The respondent preferred an appeal before the Ld. Commissioner (Appeals), who has decided the appeal through Order-in-Appeal No.170/CE/ALLD/2007 dated 30.08.2007, which is impugned order. Through impugned order, the Ld. Commissioner (Appeals) has directed the Original Authority to follow the directions of this Tribunal that the issue shall be decided in the light of provisions of Rule 57T(13) and ratio laid down by the larger Bench in the case of Kamakhya Steel (Supra), and also directed the Original Authority to examine the documents submitted by the respondent and pass order.

3. Aggrieved by the said Order-in-Appeal dated 30.08.2007, the Revenue is in appeal. In the grounds of appeal, Revenue has not raised any grounds to establish that the directions of the Ld. Commissioner (Appeals) in the impugned order are not tenable in Law.

4. Heard the learned D.R. for Revenue, who has reiterated the grounds of appeal

5. Heard the learned Counsel for the respondent. He has pointed out that the Review order, passed by the Committee of Commissioner, which is at page 54 of the appeal paper book, does not indicate any grounds of appeal.

6. I have carefully taken the rival contentions into considerations. I do not find any grounds raised by the appellant sustainable to establish that the Order of the Ld. Commissioner (Appeals) passed through impugned Order-in-Appeal is not sustainable in Law. I, therefore, dismiss the appeal filed by the Revenue. Cross Objection also stands disposed off.

(Dictated & Pronounced in the open Court)

Sd/-
(ANIL G. SHAKKARWAR)
MEMBER (TECHNICAL)

Mishra

प्रमाणित प्रति / Certified True Copy
25.10.16
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