FAX : 0532-2400149

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

Dated: 25/10/2016

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

Final Order No. A/71000/2016-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/881/2010	CCE GHAZIABAD C.G. O. COMPLEX-II, KAMLA NEHRU NAGAR, GHAZIABAD 201302
		Name and Address of Respondent
2		ROTOMAC ELECTRICALS (P) LTD. B-16, Site-IV, Sahibabad, Ghaziabad (UP),,

Copy To
3 Advocate(s) / Consultant(s): SH RAJESH CHIBBER,ADV
FA-9 KAVI NAGAR
GHAZIABAD

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. 2

APPEAL No. E/881/2010-EX[SM]

(Arising out of Order-in-Original No. 55/Commr./GZB/2009 dated 23/12/2009 passed by Commissioner of Central Excise & Customs, Ghaziabad)

For approval and signature:

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

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, Ghaziabad **Appellant**

Vs.

M/s Rotomac Electricals (P) Ltd. **Respondent**

Appearance:

Shri D.K. Deb, Assistant Commissioner (AR), for Appellant
Shri Rajesh Chibber, Advocate, for Respondent

CORAM:

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

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

Final ORDER NO....71000/2016........

Per: Anil G. Shakkarwar

The present appeal is filed by Revenue against Order-in-Original No. 55/Commr./GZB/2009 dated 23/12/2009 passed by Commissioner of Central Excise & Customs, Ghaziabad.

2. Brief facts of the case are that the respondent, M/s Rotomac Electricals (P) Ltd., are engaged in the manufacture of Insulating Varnish, Glass Banding Tapes, Article of Mica, Alkyd Resin & Thinner. The Departmental Officers visited respondent's unit on 25-07-1998 and conducted physical verification. On the basis of production slips, they verified RG-1 Register and found that some of the items covered by production slip were not entered into RG-1 Register. Revenue presumed that whatever has been recorded in the production slip but not account for in RG-1 Register was clandestinely removed without payment of duty. Therefore, they issued the respondent a Show Cause Notice dated 22-08-2001 demanding Central Excise duty of Rs.47,37,058.46/- for the years 1997-98 & 1998-99 and there were few more proposals in the said Show Cause Notice. The said Show Cause Notice was adjudicated through Order-in-Original No. 31/Commr./MRT/2002 dated 29-08-2002. The said Order-in-Original was challenged before this Tribunal. This Tribunal remanded the matter back for De-novo Adjudication through Final Order No. 24-25/05-C

dated 17-12-2004 with direction that opportunity shall be provided to the respondent to correlate the entries in their private register for the Year 1997-98 with the invoices and other statutory records which may be produced before the Adjudicating Authority at that time. Accordingly, De-novo Order was passed by Additional Commissioner through Order-in-Original No. 10/ADC/GZB/2007 dated 15-03-2007 which was set aside by Commissioner (Appeals) through Order-in-Appeal No. 118-119/CE/GZB/2008 dated 30/05/2008, holding that on remand the adjudication should have been attended by Commissioner. Subsequently, ld. Commissioner passed Order-in-Original bearing No. 55/Commissioner/GZB/2009 dated 23-12-2009 wherein he has gone through the said private register for the year 1997-98 and on the basis of entries therein he dropped demand of Central Excise duty amounting to Rs.47,37,058.46/-. In addition, there were certain other demands which were confirmed by him such as Rs.15,837/-, Rs.5,262/- & Rs.715/-. Aggrieved by the said Order-in-Original bearing No. 55/Commissioner/GZB/2009 dated 23-12-2009, the Revenue is before this Tribunal.

3. The ld. D.R. on behalf of the appellant submitted that the only grounds of appeal is that the private record for the year 1997-98, which was produced before the Commissioner during De-novo Adjudication is objected by Revenue stating

that the Commissioner should not have accepted ~~inspected~~ the contents of said Register.

4. The ld. Counsel for respondent has submitted that initially the said register was not traceable and subsequently they could trace that register. He, further, elaborated that the respondent were manufacturing large number of intermediate goods and production slips for goods were issued. The goods which were final product were entered into RG-1 Register and the goods which were intermediate were entered into private record. Therefore, there was mismatch between the production slips and entries in RG-1 Register. On the basis of private record it was established before ld. Commissioner ~~(Appeals)~~ during De-novo Adjudication that all the production slips were accounted through private record and ultimately the intermediate goods have gone into manufacture of those goods which were accounted for in RG-1 Register and duty due on the same was discharged as a result of which the ld. Commissioner in De-novo Adjudication dropped the demand.

5. The only ground raised by Revenue is that the Original Authority in De-novo Adjudication should not have accepted the said register as admissible evidence since said register was not traceable in the past. The contention of Revenue would have been worth consideration had Revenue been in a position to establish any discrepancy of the contents of the register with the evidence on the basis of which Show Cause Notice was issued. In that event the Revenue's ground was

worth consideration. The grounds raised by the Revenue are not sustainable. Therefore, I do not interfere with the Order-in-Original bearing No. 55/Commissioner/GZB/2009 dated 23-12-2009, and reject the appeal filed by Revenue.

(Dictated and pronounced in Court)

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

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