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: 16/01/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **A/70053/2017-EX[DB]** dated **05/01/2017**

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/2438/2010	**SUPRABHA INDUSTRIES LTD.** D-2, UPSIDC INDUSTRIAL AREA, CHINHAT, DEVA ROAD, LUCKNOW. (U.P.)
		Name and Address of Respondent
2		-C.C.E. LUCKNOW 7-A, Ashok Marg, Lucknow.

3Advocate(s) / Consultant(s):

3 **T. K. Srivastava**
311, Murli Bhawan,
Ashok Marg,
Lucknow,
Uttar Pradesh

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/2438/2010-EX[DB]

Arising out of Order-in-Appeal No.15-CE/LKO/2010 dated 25.01.2010 passed by Commissioner (Appeals) Customs, Central Excise & Service Tax, Lucknow.

M/s Suprabha Industries Ltd.

...APPELLANT(S)

VERSUS

Commissioner of Central Excise, Lucknow

...RESPONDENT (S)

APPEARANCE:

Shri T.K. Srivastava, Advocate for the Appellant (s)

Shri D.K. Deb, Asstt. Commr. (A.R.) for the Department (s)

CORAM:

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

DATE OF HEARING & PRONOUNCEMENT : 05.01.2017

FINAL ORDER NO.- 70053 /2017

Per Mr. Anil G. Shakkarwar:

This appeal is filed by the appellant, M/s Suprabha Industries Ltd., against Order-in-Appeal No.15-CE/LKO/2010 dated 25.01.2010 passed by Commissioner (Appeals), Lucknow.

2. The brief facts of the case are that the appellants are manufacturing goods for M/s Tata Motors Ltd., Lucknow. On enquiry with Tata Motors Ltd., Lucknow, M/s Tata Motors Ltd., Lucknow vide their letter dated 02.11.2007 informed that their cost of offer drawing is Nil because they provide dimensions and specifications i.e. length, weight etc. as offer drawing of the parts only to enable the suppliers to develop their own drawing in line with specification provided by them. Though, M/s

Tata Motors Ltd., Lucknow informed that their cost of drawing was Nil, Revenue presumed the cost of drawing to be @ Rs.085% of the cost of goods and therefore, loaded value of the goods to that extent and demanded duty of Rs.65,477/- & Rs.28,510/- from the appellants respectively through show-cause-notices dated 03.03.2008 & 11.12.2008. The said show cause notices were adjudicated through a common Order-in-Original No.28-29/DEM/CEX/LKO-II/09 dated 28.04.2009, wherein demand of Rs.93,987/- was confirmed and equal penalty was imposed. Aggrieved by the said order, appellant preferred appeal before Commissioner (Appeal), who decided the appeal through impugned Order-in-Appeal dated 25.01.2010. The Ld. Commissioner (Appeal) rejected the appeal preferred by appellant. Aggrieved by the said Order-in-Appeal, appellant is before this Tribunal.

3. Heard the learned counsel for the appellant. He submitted that in view of the report by M/s Tata Motors Ltd., Lucknow that the drawing supplied to the appellants did not involve any coast and they were only providing dimensions and specifications for the appellant to develop their own drawing and therefore, there was no question of loading any value on account of drawing and designing charges. He has relied on Final Order of this Tribunal in the case of Commissioner of Central Excise, Pune Vs. Luna Agro Industries Pvt. Ltd. reported at 2009(242) ELT 130 (Tri.-Mumbai)

4. Heard the learned DR for Revenue, who has supported the impugned Order-in-Appeal.

5. Having considered the rival contentions, We find that this tribunal in the said case has held that if the assessee is not recovering any charges from customers on account of drawing and designing, there is no question of inclusion of any charges to the assessable value. Following the precedent decision of this Tribunal, we hold that there was no case for inclusion of any consideration on account of drawing and designing charges in the present case. Therefore, we set aside the impugned Order-in-Original and Order-in-Appeal and allow the appeal.

(Dictated & pronounced in the open Court)

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

-Sd/-
(ANIL CHOUDHARY)
Member(JUDICIAL)

Mishra

प्रमाणित प्रति / Certified True Copy
20.1.17
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