

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

Dated: 09/01/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70032/2017-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/2534/2007	U.P. POWER CORPORATION LTD Through its S.D.O., Electricity Pole Manufacturing Civil Sub Division- I, Naini, Allahabad(UP)

Name and Address of Respondent

2	-C.C.E Allahabad 38, M.G. Marg, civil Lines, Allahabad
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3 Bar Association, CESTAT, Allahabad

4 Director Publications, Customs, Excise, I.P. Estate, Delhi

5 M/s Centax Publications Pvt. Ltd., 1512-13, Bhisham Pitamah Marg, New Delhi-3

6 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

7 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

8 LAWCRUX Advisors Pvt. Ltd., LAW House, I-X, Sector-10, Faridabad 121003 (Haryana)

9 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

10 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad - 38

11 The ICFAI society, 52, Nagarjuna Hill, Punjagutta Hyderabad.-500082

12 M/S Knowledge Processing Pvt. Ltd.(taxmanagementindia.com), FF-19, 1st Floor, Cross River Mall, CBD Ground, Near Karkardooma Court, Delhi-110032

13 C.D.R. 14 Office Copy 15 Guard File


 Asstt. Registrar

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD**

Appeal No.E/2534/2007-EX[DB]

Arising out of Order-in-Appeal No.136/CE/APPL/ALLD/07 dated 28.06.2007
passed by Commissioner (Appeals) Customs & Central Excise, Allahabad.

M/s U.P. Power Corporation Ltd.

...APPELLANT(S)

VERSUS

Commissioner of Central Excise, Allahabad

...RESPONDENT (S)

APPEARANCE

None for the Appellant (s)

Shri Pawan Kumar Singh, Supdt. (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. - 7003/2017

Per Mr. Anil Choudhary :



The present appeal is filed by applicant, M/s U.P. Power Corporation Ltd., against Order-in-Appeal No.136/CE/APPL/ALLD/07 dated 28.06.2007 passed by Commissioner (Appeals), Allahabad.

2. The appellant is absent in spite of notice. The appellant had earlier appeared and sought time on 15.06.2016, 02.08.2016 (by way of last chance), 08.09.2016, and thereafter, they have not appeared on 04.10.2016 and 10.11.2016. As the facts lies in narrow compass, we take up the matter for hearing ex parte with the assistance of Ld. DR.
3. Heard the Ld. DR for Revenue.

For

4. The applicant started availing the benefit of small scale exemption with effect from 01.04.2005. The Revenue is asking for reversal of credit in respect of the inputs lying in stock as on 31.03.2005.
5. The contention of the applicant is that whatever credit is lying in their credit Register of the duty when they started availing benefit of notification will lapse. The applicant further submitted that credit availed, which is already utilized (before 01.04.2005) is not liable to be reversed. The applicant relied upon the Larger Bench decision of the Tribunal in the case of Ashoka Iron & Steel Vs. C.C.E. reported in 2002 (140) ELT 277.
5. Having considered rival contentions, we find that the issue is squarely covered in favour of the appellant by the Large Bench ruling of this Tribunal in Ashoka Iron & Steel Vs. CCE (*supra*). Accordingly, this appeal is allowed with consequential benefits, if any, in accordance with Law.

(Dictated and Pronounced in the open Court)

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

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

प्रमाणित प्रति / Certified True Copy

20/1/17
सहायक पंजीयक / Asst. Registrar
सीमाशुल्क, प्रमाणित एवं सेवा कर
अपील अधिकरण / (C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001

