CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
OLD RED BUILDING, 38,M.G.Marg,CIVIL LINES, ALLAHABAD

Dated: 27/04/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/ 70149/2016 SM dated 22/4/2016

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
	E/50998/2015	INGERSOLL-RAND TECHNOLOGIES &SERVICES PVT LTD PLOT NO 37-A,SITE-IV INDUSTRIAL AREA, SAHIBABAD GHAZIABAD
	Name and Address of Respondent	COMMISSIONER OF CENTRAL EXCISE, GHAZIABAD CGO COMPLEX-II, KAMLA NEHRU NAGAR, GHAZIABAD

Other Appellants and Respondents as per Annexure

Copy To

3Advocate(s) / Consultant(s SH R.C.VERMA,ADV
D-34, PATEL NAGAR-2
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.26), Vaithyaram Street, T. Nagar, Chennai-17

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

9 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15

10 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-16, Faridabad 121003 (Haryana)

11 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi – 110070

12 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38
13 The ICFAI society, 52, Nagarjuna Hill,Panjagutta Hyderabad.-500082
14 C.D.R. 15 Office Copy 16 Guard File

Asstt. Registrar
Regional Bench, Allahabad

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, REGIONAL BENCH : ALLAHABAD

Single Member Bench

Appeal No. E/50998/2015 (SM)

[Arising out of Order-In-Appeal No. GZB/EXCUS/000/APP/229/14-15 dated 29.11.2014 passed by Commissioner (Appeals) Customs, Central Excise & Service Tax, Meerut –II, U.P]

For approval and signature:

Hon'ble Shri Anil Choudhary, Judicial Member

1.	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	
3.	Whether their Lordships wish to see the fair copy of the order?	
4.	Whether order is to be circulated to the Department Authorities?	

Ingersoll-Rand Technologies & Services Pvt. Ltd. Appellant

Vs.

CCE, Ghaziabad Respondent

Appearance:
Present for the Appellant: Shri Rakshit Verma, Advocate
Present for the Respondent: Shri D.K. Deb (Asstt. Commissioner) (AR)

Coram: **Hon'ble Shri Anil Choudhary, Judicial Member**

Date of Hearing/Decision: 22/4/2016

Final **ORDER NO.** 70149/2016

Per: Anil Choudhary

The appellant assessee a manufacturer is in appeal against Order-in-Appeal dated 28/11/14 by which the disallowance of input credit

Ar

availed on manpower supply services in respect of personnel like Computer Operator, Sweeper, Pantry, Cook, Gardner, Drivers etc. and on expenses like photocopy, dryclean, AC repair, computer repair, etc. have been upheld.

2. Show cause notice dated 14/3/13 was issued invoking the extended period in respect to the period January 2008 to March 2011, pursuant to audit, as it appeared to Revenue that Cenvat credit taken is not proper as the expenses in question do not qualify in the definition of 'input service' under Rule 2 (l) of CCR 2004.

3. Heard the parties.

4. I find from the perusal of the show cause notice that the lump sum demand is proposed with reference to Annexure-A and Annexure-B forming part of the show cause notice, as RUD 01. After receipt of the show cause notice the appellant pointed out that the RUDs have not been supplied and the made request for supply of the RUD or the Annexure to the show was notice, vide the letter dated 14/6/13, 4/7/13 and 25/7/13. Thereafter they filed interim reply dated 22/10/2013 mentioning that the same is being filed due to non-supply of relied upon documents. Among other objections raised, an objection to the invoking of extended period was also raised. Thereafter as it appears from the Order-in-Original, that without supplying the relied upon documents, the SCN was adjudicated and the proposed demand was confirmed along with interest and further penalty of equal amount was

imposed under Rule 15 of the Cenvat Credit Rules, 2004 read with Section 11 AC of the Central Excise Act.

5. Being aggrieved the appellant had preferred appeal before ld. Commissioner (Appeals) who was pleased to reject the appeal confirming the Order-In-Original.

6. Having considered the rival contentions I find that in absence of relied upon documents which admittedly have not been supplied, the show cause notice is vague, as it does not contain the break-up of amount proposed to be disallowed in respect of various heads of expenses like Computer Operator, Sweeper, Pantry-Cook, Gardner, Drivers etc. etc. I hold that no valid adjudication order can be made pursuant to a vague show cause notice. I also find that the Cenvat credit proposed to be disallowed was duly recorded in the books of accounts and the assessee had disclosed the same in the regular ER-1 returns and no contumacious conduct was found by revenue. Thus under the facts, I hold that extended period of limitation is not available to the revenue. Thus the appeal is allowed and the impugned order is set aside. The appellant is entitled to consequential benefits in accordance with law.

(Dictated in the open court)

(Anil Choudhary)
MEMBER (Judicial)

(K. Gupta)

प्रमाणित प्रति / Certified True Copy
4.5.16
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