1.

FAX : 0532-2400149

REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
SINGLE MEMBER APPEAL BRANCH

Dated: 28/06/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70285/2016-SM[BR] dated 17/06/2016

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 01(5) of the Finance Act, 1994 relating to Service Tax Act, 1994.

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	ST/55911/2014	SAMCO AUTO INDIA PVT LTD PARTAPUR INDUSTRIAL ESTATE, DELHI ROAD,MEERUT UP
		Name and Address of Respondent
2		C.C.E. & S.T.-Meerut-I EXCISE CHOWK,..UNIVERSITY ROAD,MANGAL PANDEY NAGAR, MEERUT,UTTAR PRADESH-250005

Copy To

3 Advocate(s) / Consultant(s):

Rishi & Associates
60 - VISHVESHWARPURI,
BEHIND SADAR THANA,
MEERUT CANTT,
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 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15
10 LAWCRUX Advisors Pvt. Ltd., LAW House, 3-8, Sector-10, 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,Punjagutta Hyderabad.-500082
14 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032
15 C.D.R. 16 Office Copy 17 Guard File

Asstt. Registrar

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

REGIONAL BENCH : ALLAHABAD

Single Member Bench

Appeal No. ST/55911/2014 (SM)

[Arising out of Order-in-Appeal No.36-CE/MRT-I/2014 dated 25/04/2014 passed by Commissioner of Customs & Central Excise, Meerut-I]

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?	

M/s Samco Auto India Pvt. Ltd.   Appellant

Vs.

C.C.E. & S.T. Meerut-I   Respondent

Appearance:

Present for the Appellant: None
Present for the Respondent: Shri Ashutosh Nath, (AR)

Coram: Hon'ble Shri Anil Choudhary, Judicial Memeber

Date of Hearing/Decision: 21/12/2015

FINAL **ORDER NO.** 70285|2016

Per: Anil Choudhary

The appellant assessee is in appeal against Order-in-Appeal dated 30/4/14 passed by the Commissioner (Appeals) Meerut-I.

2. The brief facts are that the appellant is a manufacturer is registered with the revenue under the provisions of Central Excise and avails Cenvat credit on inputs and input services. The appellant had paid commission for the input services. On the objection of the revenue the appellant reversed the Cenvat credit amounting to Rs.1,52,606/- under protest and paid interest vide challan for Rs.45,731/-. In appeal filed before this Tribunal in the earlier round, the appellant succeeded and vide Final Order number A/1667/2012-SM(BR) dated 30/11/12, the revenue's appeal was dismissed and the order of Commissioner (Appeals) dated 30/7/2010 was upheld which allowed Cenvat credit on such service tax paid by the assessee on commission paid to. sale agents. In pursuance of the order of the Tribunal, the refund sanctioning authority granted the refund of interest Rs.45,731/- vide Order-in-Original dated 30/9/13. Being aggrieved the revenue preferred appeal before the Commissioner (Appeals) and vide the impugned order Commissioner (Appeals) have again entered into the merits of the matter and held that the input tax is not allowable to the appellant assessee in view of the

ruling of Hon'ble High Court in the case of CCE Vs. Cadila Healthcare Ltd. reported in 2013 (30) S.T.R. 3 (Guj.).

3. The appellant is absent in spite of Notice. In view of the facts being in a narrow compass, the appeal is taken up for disposal separate, with the assistance of Ld. A.R. for Revenue.

4. Having considered the submissions, and perusal of records, I find that impugned order is hit by 'Doctrine of Merger'. Accordingly I allow the appeal and set aside the impugned order in appeal.

5. Thus, the appeal is allowed.

(Dictated and pronounced in the open Court)

Sd/-
(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

(K. Gupta)

अभिप्रमाणित प्रति / Certified True Copy
8.7.16
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