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: 12/07/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70612/2017-EX[DB] dated 04/07/2017

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/CROSS/76/2011	E/3836/2010	C.C.E, ALLAHABAD 38,M.G.Marg, civil Lines, Allahabad
			Name and Address of Respondent
2			HINDALCO INDUSTRIES LTD. RENUKOOT, SONEBHADRA (UP),,

Copy To

3Advocate(s) / Consultant(s):

Atul Gupta, (Adv.) ALD
3/1A/3 OPP AUTO SALES,Above the Office Of Blue Dart/DHL Courier, COLVIN ROAD, LOHIA MARG ALLAHABAD-211001

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 & SERVICE TAX APPELLATE TRIBUNAL

REGIONAL BENCH : ALLAHABAD

COURT No. I

E/CROSS/76/2011

APPEAL No.E/3836/2010-EX[DB]

(Arising out of Order-in-Original No. MP(Dem-106/2009) 28 of 2010 dated 10/08/2010passed by Commissioner of Central Excise &Service Tax, Allahabad)

Commissioner of Central Excise, Allahabad **Appellant**

Vs.

M/s Hindalco Industries Ltd. **Respondent**

Appearance:

Shri Mohmad Altaf, Assistant Commissioner (AR) for Appellant

Shri Atul Gupta, Advocate, for Respondent

CORAM:

Hon'ble Mr. Anil Choudhary, Member (Judicial)

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

Date of Hearing : 04/07/2017

Date of Decision : 04/07/2017

FINAL ORDER NO.-70612/2017.......

Per: Anil G. Shakkarwar

The present appeal is directed against Order-in-Original No. MP(Dem-106/2009) 28 of 2010 dated 10/08/2010 passed by Commissioner of Central Excise & Service Tax, Allahabad.

2. The brief facts of the case are that respondent M/s Hindalco Industries Ltd. were engaged in the manufacture of Aluminum and Aluminum products. They were issued with a show cause notice dated 23.12.2009, through which it was alleged that respondent were clearing waste and scrap of inputs valued at Rs.6,04,18,668/- on which Central

Excise duty amounting to Rs.88,25,373.84/- was demanded. The goods on which the said duty was demanded were used Lubricant Oil, used Cutting Oil, used Transformer Oil, Packing carton, Paper Spool etc. In addition, there was one more item which is called Anthracine Oil. The original authority on the basis of various pronouncements by higher judicial authorities held that Anthracine Oil was generated out of the process of manufacture and therefore ~~they were~~ he confirmed the demand of duty of Rs.1,01,077/- on Anthracine Oil. In respect of the remaining items, he has dropped the demand on various grounds including some of them were leftover of the used inputs and some of them did not find place in the Central Excise Tariff and hence, they ~~do~~ did not attract Central Excise duty. Aggrieved by the said order, Revenue is in appeal before this Tribunal.

3. In the grounds of appeal revenue have again reiterated the grounds of show cause notice that as per the provisions of Rule 2(h) of Central Excise Rules and as per para-3.2 of Chapter 5 of CBEC's Manual of Supplementary Instructions 2005, read with Section 2(d) of Central Excise Act, 1944. The duty should have been demanded and confirmed on the goods in respect of which the Original authority has dropped the demand.

4. Heard the learned A.R., who has supported the grounds of appeal.

5. Heard the learned Counsel for respondent, who has submitted that for the subsequent period on the same items such as used

Lubricant Oil, used Transformer Oil, Scrap of paper waste, Waste & Scrap of old & used combo bag, Waste & Scrap of old & used Hoop iron, Waste & Scrap of old & used paper spool etc. ~~It~~ it was held by this Tribunal through Final Order No.A/844/2012-EX(DB) dated 18.07.2012. ~~It was held~~ that the said items did not find place in the Central Excise Tariff and therefore could not be treated as Final Products and hence could not be subjected to levy of Excise duty and therefore, this Tribunal had held through Final Order No.A/844/2012-EX(DB) dated 18.07.2012 that the same goods in respect of which original authority, in the present impugned order has dropped the demand were not leviable to Central Excise duty.

6. Having considered the rival contentions, we find that the items on which revenue was seeking through appeal, levy of Central Excise duty have already been held to be none excisable Through Final Order No.A/844/2012-EX[DB] dated 18.07.2012. Therefore, we also do not find any merits in the appeal filed by the Revenue.

7. Therefore, we reject the appeal filed by the Revenue. Cross Objection also stands disposed of.

(Dictated in Court)

-Sd/-	**-Sd/-**
(ANIL CHOUDHARY)	**(ANIL G. SHAKKARWAR)**
Member (JUDICIAL)	**Member(TECHNICAL)**

okp

प्रमाणित प्रति/Certified True Copy
17/07/2017
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