FAX : 0532-2400149

REGISTERED / AD

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

To

Dated: 12/04/2017

Appellant as per address in table below
Respondent as per address in table below

Final Order No. A/70351/2017-SM[BR] dated 30/03/2017

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/59449/2013 | **Merino Industries Ltd**<br>Hapur<br>GHAZIABAD<br>U.P |
| | | Name and Address of Respondent |
| 2 | | C.C.E. & S.T.-Meerut-ii<br>OPPOSITE SHAHEED SMARAK,DELHI ROAD...BHANSALI GROUND,<br>MEERUT,<br>UTTAR PRADESH- |

Copy To
3 Advocate(s) / Consultant(s):

**S.SUNIL, ADVOCATE**
**46, BANK ENCLAVE,**
**DELHI**
**110092**

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

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# IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
## REGIONAL BENCH : ALLAHABAD
## COURT No. I

APPEAL No.E/59449/2013-EX[SM]

(Arising out of Impugned Order C. No.V(30)Tech/M-II/Merino/06/2012 dated 13/03/2013 passed by Commissioner of Central Excise & Customs, Meerut-II)

**M/s Merino Industries Ltd.,** **Appellant**

Vs.

**Commissioner of Central Excise & S.T., Meerut-II** **Respondent**

Appearance:

Shri S. Sunil, Advocate for Appellant
Shri Sandeep Kumar Singh, Deputy Commissioner (AR), for Respondent

**CORAM:**

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

Date of Hearing : 30/03/2017
Date of Decision : 30/03/2017

FINAL ORDER NO.-70351/2017........

**Per: Anil Choudhary**

The issue in this appeal is whether the prayer for single registration of the two different units located in near vicinity and which are admittedly interdependent, whether the prayer for single registration have been rightly rejected.

2. As per the impugned order passed by the Additional Commissioner in response to the application of the appellant dated 14th February, 2013 seeking permission for inclusion of both the units under a single registration or existing registration number, it have been observed as follows: –

"*On going through your submission it is observed that:-*

i) *The activity being undertaken in the intended premises is printing of paper which is one of the jobs for completion of final product i.e. decorative laminates, and*

Acn

*ii) The premises of main unit and that of ancillary unit are not separated by public road, canal or railway line but situated at a distance of 1.8 kms and on two separate khasra and there are a number of houses, commercial buildings, government offices, residential colonies between the two units.*

*Since the premises of the main unit and ancillary unit are not separated by public road, canal or railway line, the request for single registration may not be considered in light of provisions of para 3.2 of Chapter 2 of CBEC's manual of Supplementary Instructions and in terms of Notification No.36/2001-CE(NT) dated 26.06.2001 as amended.*

*This issues with the approval of the Commissioner, Central Excise & Customs, Meerut-II."*

3. The learned Counsel states that the rejection on the ground of that the two units are not separated by public road, canal or railway line no longer stands good, in view of subsequent Notification No.19/2016-CE dated 1st March, 2016 wherein Clause 3 of Notification No.36/2001-CE(NT) dated 26/06/2001 have been substituted with the following:-

*"(3) hereby declares that if two or more premises of the same factory are located within a close area in the jurisdication of a Range Superintendent, the manufacturing process undertaken therein are interlinked, and the units are not operating under any of the area based exemption notifications, the Commissioner of Central Excise, may, subject to proper accountal of the movement of goods from one premise to other and such other conditions and limitations as he may impose, allow single registration."*

4. Heard the learned A.R. for revenue, who supports the impugned order.

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5. Having considered the rival contentions, I find that the only reason given for rejection is that the two units are not separated by public road, canal or railway line. It has been specifically observed that the two units are interdependent and as is evident from the impugned order, all other criteria are fulfilled. Accordingly, in view of Notification No.19/2016–CE amending the earlier Notification No.36/2001-CE by way of substitutions, I hold that the appellant is entitled to unified registrations for both their units which are admittedly located in close area, in the jurisdiction of the same range superintendent. As the courts below did not have the opportunity to consider the subsequent Notification dated 01/03/2016, accordingly, I allow this appeal by way of remand with a direction to the learned Commissioner that if all other conditions are fulfilled then to reconsider his decision with regard to inclusion of their other unit in the existing registration, within a period of 45 days from the date of receipt of a copy of this order. The learned Commissioner is also directed to hear the appellant and pass a reasoned order, in accordance with law. I also grant liberty to the appellant to appear before the learned Commissioner and seek an opportunity of hearing.

(Dictated in Court)

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

akp

प्रमाणित प्रति / Certified True Copy
28/04/2017

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