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: 20/03/2017

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

Final Order No. A/70270/2017-SM[BR] dated 09/03/2017

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
E/Stay/70336/2016	E/70654/2016	**COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX,- Cee Hapur** OPPOSITE SHAHEED PARK, DELHI ROAD, MEERUT-U.P

Name and Address of Respondent

Genus Paper Board Ltd
Kanth Road,agwanpur,,
MORADABAD
.UP

3Advocate(s) / Consultant(s):

R. C. Gupta, Advocate
AASHIRWAAD KOTHI NO. 557,
SECTOR-19,
FARIDABAD
HARYANA-121002

4 Bar Association, CESTAT, Allahabad

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

6 M/s Cemax 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

APPEAL No. E/70654/2016-EX[SM] With STAY Application No. E/Stay/70336/2016

(Arising out of Order-in-Appeal No. HPU/EXCUS/000/APPL-I/593/2015-16 dated 22/03/2016 passed by Commissioner of Central Excise (Appeals), Meerut)

Commissioner of Central Excise & Service Tax, Hapur Appellant

Vs.

M/s Genus Paper Boards Ltd. Respondent

Appearance:

Shri D. K. Deb, Assistant Commissioner (AR). for Appellant
Shri R. C. Gupta, Advocate. for Respondent

CORAM:

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

Date of Hearing & Date of Decision: 09/03/2017

FINAL ORDER NO...70270/2017........

Per: Anil Choudhary

The Revenue is in appeal against Order-in-Appeal HPU/EXCUS/000/APPL-I/593/2015-16 dated 22/03/2016, whereby the ld. Commissioner (Appeals) have held that the appellant is entitled to Cenvat credit on commission paid to the selling agents for causing sale of Kraft Paper & M. S. Ingots, the dutiable products of the appellant.

2. Heard both the parties.

3. It is seen that the definition of input service in Rule 2(l) of Cenvat Credit Rules, 2004, ~~subsequently~~ includes sales promotion and market research. The grievance of Revenue is

that the ld. Commissioner (Appeals) have relied on Notification No. 2/2016-CE (NT) dated 03/02/2016, by which an explanation was inserted in Rule 2(l), which read as follows – "for the purpose of this clause, sales promotion includes services by way of sale of dutiable goods on commission basis." The grievance of Revenue is that this explanation, which clarifies that sales promotion includes services by way of sale of dutiable goods on commission basis does not have retrospective effect as it is not specifically provided therein, relying on the provisions of section 38A of the Central Excise Act, 1944.

Having considered the submissions and the appeal records, I find that sales promotion was already an item defined as an input service. The explanation only further elucidates the scope of the term sales promotion, so as to put confusion, if any, ~~addressed~~ at rest. Thus, even without ~~definition~~ explanation being there, I hold that the respondent-assessee is entitled to input credit on sales promotion or commission paid for sale of their dutiable output/products. Accordingly, the appeal of Revenue is dismissed. The respondent-assessee is entitled to consequential benefits, if any, as per law. The Stay Application also stands disposed of.

(Dictated and pronounced in Court)

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

Ansari

प्रमाणित प्रति / Certified True Copy
23/03/17
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