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: 22/11/2017

To

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

Final Order No. A/71536/2017-SM[BR] dated 17/11/2017

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 129-A(4) of the **Customs Act, 1962.**

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	C/56792/2013	**Sabic Innovative Plastics India Private Limited** 9th Floor,building No.-9,tower-b,dlf City,phase-ii GURGAON HARYANA
		Name and Address of Respondent
2		C.C. & C.E. & S.T.-Noida C-56/42...SECTOR 62, NOIDA, UTTAR PRADESH-201307

Copy To

3 Bar Association, CESTAT, Allahabad

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

5 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3

6 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

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

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

9 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

10 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

11 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

12 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

13 C.D.R. 14 Office Copy 15 Second Folder Copy 16 Guard File

Asstt. Registrar

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

APPEAL No. C/56792/2013-CU[SM]

(Arising out of Order-in-Appeal No.326/CUST/APPL/NOIDA/12 dated 29/09/2012 passed by Commissioner(Appeals) of Central Excise & Service Tax, Noida)

Sabic Innovative Plastics India Pvt Ltd — Appellant

Vs.

C.C. & C.E. & S.T.- Noida — Respondent

Appearance:

Absent — for Appellant

Shri Mohd. Altaf (AC) AR — for Respondent

CORAM:

Mrs. Archana Wadhwa, Hon'ble Member (Judicial)

Date of Hearing : 17/11/2017

Date of Decision : 17/11/2017

FINAL ORDER NO-71536/2017......

Per: Mrs. Archana Wadhwa:

Nobody appeared for the appellant, inspite of notice of hearing having been sent to them. However, I find from the records that the said notice stands received back by the registry. Accordingly, I proceed to dispose of the appeal by hearing the learned AR appearing for the Revenue and after going through the impugned orders.

2. The issue involved in the present appeal is refund of SAD in terms of notification no. 102/2007-CUS dated 14.09.2007. As per the said notification, the SAD paid at the time of import of the goods is required to be refunded to the importer, in case the said imported goods are sold subsequently on payment of VAT.

3. The appellant's refund claim stands rejected by the Lower Authorities on the ground that sale invoices do not mention the Bill ~~appeal~~ of entry no. and as such co-relation between the imported goods and sold goods cannot be established. The authorities have also pointed out to certain other technical lapses on the part of the assessee.

4. I find that the intent of notification no. 102/2007-CUS is to allow the refund of SAD paid at the time of import in case the same very goods are sold subsequently and VAT stands paid on the same. The said legislative intent should not be defeated by pointing out to certain discrepancies. The appellants have amended their invoices subsequently and have placed the correct number on the same. The entire endeavour of the Revenue should be to derive ~~pointed~~ out as to whether the goods sold on payment of VAT, are the same very goods which stands imported. There are number of decisions of the Tribunal lying down that such hyper technical objections raised by the Revenue for denial of the benefit, which is otherwise available to an assessee, cannot be sustained.

5. Having observed the same, I set aside the impugned order and remand the matter to Original Adjudicating Authority for verification of the fact as to whether the goods sold under invoices, were the same goods which were imported by the

appellant on payment of SAD. The appellant shall also establishes the link between the two. Needless to say that the appellant would be given an opportunity to do so.

6. Appeal is thus allowed by way of Remand.

(Dictated and pronounced in Court)

Sd/-
(Archana Wadhawa)
Member(Judicial)

GS

Certified True Copy
07/12/17
Asstt. Registrar
C.E.S.T.A.T.
38, M.G. MARG, ALLAHABAD-211001