

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

Dated: 20/09/2017

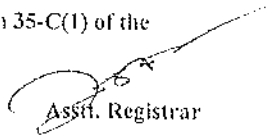
To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71127/2017-SM|BR| dated 18/09/2017

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/983/2011	C.C.E, MEERUT-II Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)
		Name and Address of Respondent
2		GANGESHWAER SPINNING MILLS, (PROP. T.T. LTD.) N.H. 24, TIRUPATIPURAM, GAJRAULA, DISTT. J.P. NAGAR (U.P.),,

Copy To

3 Advocate(s) / Consultant(s):

BIMAL JAIN (C. A.)
650, POCKET-V, MAYUR
VIHAR,
PHASE-I,
DELHI
110091

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., S9/32, New Rohtak Road, New Delhi-110005

9 LAWCRUX Advisors Pvt. Ltd., LAW House, I-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

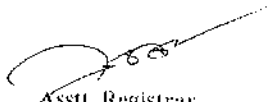
12 The ICFAI society, 52, Nagarjuna Hill, Punjagutta Hyderabad.-500082

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/983/2011-EX[SM]

(Arising out of Order-in-Appeal No. 408-409-CE/MRT-II/2010 dated 31/12/2010 passed by Commissioner of Central Excise & Customs (Appeals), Meerut-II)

Commissioner of Customs & Central Excise, Meerut-II Appellant
Vs.

M/s Gangeshwar Spinning Mills Respondent

Appearance:

Shri Pradeep Kumar Dubey (Supdt.) AR
Shri Sudarshan Singh

for Appellant
for Respondent

CORAM:

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

Date of Hearing : 18/09/2017
Date of Decision : 18/09/2017

FINAL ORDER NO. 71127/2017.....

Per: Anil Choudhary

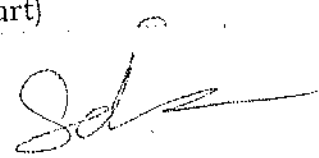


The issue in this appeal by Revenue is whether the learned Commissioner (Appeals) have rightly allowed the Cenvat Credit allowing the appeal of the respondent-assessee holding that they are entitled to Cenvat Credit amounting to Rs. 6,65,053/- as input credit on the value of materials supplied by the respondent for construction work, in their factory premises.

2. Heard the parties.
3. Having considered the rival contentions I find that the

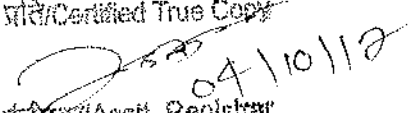
show cause notice dated 26 March, 2010 have been issued for the period April, 2006 to June, 2007 invoking the extended period of limitation. It is stated in the show was notice that in the course of audit, the officers of Audit of the Central Excise Commissionerate, Meerut observed that the respondent have availed some inadmissible Cenvat Credit. It is further alleged that the disputed Cenvat Credit has been taken and utilised by the respondent wrongly by willful misstatement and suppression of facts, in contravention of the scheme of the act and the Rules, thereby invoking the extended period of limitation. On perusal of facts on record I find that the transactions and/or credit being subsequently disputed, have been duly recorded in the books of accounts and registers maintained in the ordinary course of business, there is no element of suppression involved. The matter is wholly of interpretation in nature. Accordingly, I hold that the show cause notice is ab-initio-void. Accordingly, this appeal by Revenue is dismissed and I uphold the Order-in-Appeal.

(Dictated and pronounced in Court)


(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

Ankit

प्रमाणित प्रतिलिपि/Certified True Copy


सहायक रजिस्ट्रार/Asstt. Registrar
सीमांकृत, उत्तराखण्ड एवं सेवा कर
अपील अधिकरण(C.E.S.T.A.T.)
38, एम.जी.मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001

