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: 17/11/2017

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

<u>Final Order No. A/71383/2017-SM[BR] dated 13/11/2017</u>

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/1569/2010	**KAPOOR PRINT PACK PVT. LTD.** G-13, Panki Industrial Area, Site-I, Kanpur. Now 46, Govt. Industrial Estate, Kalpi Road, Kanpur
		Name and Address of Respondent
2		-C.C.E. KANPUR 117/7, Sarvodaya Nagar, Kanpur 208005.

Copy To
3<u>Advocate(s) / Consultant(s)</u>:

AMIT AWASTHI ADVOCATE
7/116A, H-1, 1ST FLOOR,
RADHEY APARTMENT,
SWAROOP NAGAR, KANPUR-208002

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, Opp ICICI Bank of Defence Colony 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 Second Folder Copy 17 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, REGIONAL BENCH : ALLAHABAD

Ex.Appeal No.1569/10

Arising out of O/A No.109/CE/Appl./KNP/2010 dated 26.02.2010 passed by Commr. (Appeals) of Central Excise, Customs, Kanpur.

M/s Kapoor Print Pack Pvt. Ltd.

...APPELLANT(S)

VERSUS

Commr. of Central Excise, Kanpur

RESPONDENT (S)

APPEARANCE

Shri A. K. Dixit, Advocate for the Appellant (s)
Md. Altaf, Asstt. Commissioner (A.R.) for the Revenue

CORAM:

MRS. ARCHANA WADHWA, HON'BLE JUDICIAL MEMBER

DATE OF HEARING/DATE OF DECISION : 13. 11. 2017

Final ORDER NO.71383/2017

Per Mrs.Archana Wadhwa :

The appellants are engaged in the process of lamination/metallization and was clearing final products on payment of duty after availing cenvat credit of duty paid on the inputs.

2. Revenue was of the view that the said process does not amount to manufacture as ~~no~~ AL new product does not come into existence and inasmuch as no manufacturing activity was involved, the appellant was not entitled to avail the cenvat credit of duty paid on the inputs. As such, after initiating the proceedings, the impugned orders were

passed, confirming the demand by denial of credit and imposition of penalty.

3. It is seen that the present issue is no more *res-integra* . If the process did not amount to manufacture, the Revenue was silent at the time of receipt of the Central Excise duty, but their belief is raised only subsequently, while denying the credit. In any case, credit availed by the appellant, stands reversed, when the same was used for payment of duty and requiring no further reversal. The Tribunal in the case of Asian Colour Coated Ispat Ltd. Vs. Commr. of Central Excise, Delhi III : 2015 (317) ELT 538 (Tri – Del.), has held that when the credit stands utilized in the non-manufacturing activity, the same cannot be subsequently asked to ~~deposit~~ be debited. By following the said decision of the Tribunal, I set aside the impugned order and allow the appeal with consequential relief to the appellant.

Dictated and pronounced in the open Court

Sd/-
(Archana Wadhawa)
Member(Judicial)

//////

प्रमाणित प्रति/Certified True Copy
06/12/17
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