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: 30/11/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/71723/2017-EX[DB] dated 29/11/2017

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/1842/1997	**Ms Century Laminating Co Ltd** (presently Known As Marino Industries Limited), 5 Alexendra Court, 60/01 Chowringhee Road Kolkata West Bengal 700020
		Name and Address of Respondent
2		C.C.E. & S.T.-Meerut-ii OPPOSITE SHAHEED SMARAK,DELHI ROAD,,BHANSALI GROUND, MEERUT, UTTAR PRADESH-

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

S.SUNIL ADVOCATE
46, BANK ENCAVE, 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, 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

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

DATE OF HEARING & DECISION:29.11.2017

Ex. Appeal No. 1842 /1997

(Arising out of order in appeal No. 903/CE/MRT/97 dated 11.07.97 passed by the Commissioner (Appeals), Central Excise, Ghaziabad).

M/s Century Laminating Co. Limited Appellant

Vs.

CCE, Meerut Respondent

APPEARANCE

Sh. S. Sunil, Advocate for the Appellant
Shri Pawan Kumar Singh, Supdt. (D.R.) for the Department

CORAM:

Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar (Technical)

Final Order No.

Per Ms. Archana Wadhwa: 71723/2017

After hearing both the sides we find that the appellant, being aggrieved with the order passed by the Assistant Commissioner, vide which the benefit of cenvat credit of duty paid on capital goods was denied, appellant filed an appeal before the Commissioner (Appeals) in EA-1 form. However, though, the said EA-1 was filed, but no statement of facts and grounds of appeal were annexed with the appeal. The Commissioner (Appeals) observed that the said EA-1 form cannot be considered to be a proper appeal in the absence of statement of facts and grounds of appeal and accordingly dismissed the appeal as barred by limitation as also being unsubstantiated.

2. The said order of Commissioner (Appeals) was challenged by the appellant before the Tribunal. The Tribunal vide its order dated 18.11.97 agreed with the order of Commissioner (Appeals) that in the absence of statement of facts and grounds of appeal, the appeal filed before him cannot be considered to be a proper appeal and as such the appellate authority has rightly dismissed the same. It is seen that thereafter rectification of mistake application was filed before the Tribunal which was also rejected.

3. The said orders of the Tribunal were challenged before the Hon'ble High Court of Allahabad who vide their order dated 29.11.2016 set aside those orders and remanded the matter to the Tribunal for fresh consideration after giving the assessee an opportunity to add the grounds, statement of facts and also an opportunity of hearing. The Hon'ble high Court further observed that in case the party concerned approaches the Tribunal within next fifteen days with a clear statement of facts and grounds, the same may be considered in accordance with law after giving them an opportunity of hearing.

4. Accordingly, the appeal is listed today for disposal.

5. In terms of the direction of the Hon'ble High Court of Allahabad, the appellant have now filed statement of facts and grounds of appeal within the period directed by the Tribunal. The said fact was taken note of by the Tribunal vide its miscellaneous order No. 70247/2017 dated 27.07.2017 and the statement of facts and grounds of appeal were taken on record.

6. After hearing the ld. Advocate appearing for the appellant and ld. AR appearing for the Revenue, we note that Commissioner (Appeals) has rejected the appeal filed before him on the issue of time bar as also the same being

unsubstantiated. In terms of the direction of the Hon'ble High Court, the appellant have now placed on record the statement of facts as also grounds of appeal. Inasmuch as there are no findings by Commissioner (Appeals), on the said grounds, now being raised before us, we are of the view that the matter needs to be remanded to him for decision on merits.

7. We also note that the Commissioner (Appeals) has observed that the appeal filed before him was barred by limitation. Ld. Advocate submits that though the impugned order was passed on 28.02.1997 but the same was received by them only on 21.03.1997 and the appeal before the Commissioner (Appeals) was filed on 20.06.1997. He submits that during the relevant period, a period of three months was available to an assessee to file appeal before Commissioner (Appeals) with powers to condone the further period of delay upto three months. As such, he submits that the appeal having been filed before the expiry of three months from the date of receipt of the order, is well within the period of limitation. In case, there is any delay, he undertakes to file a CoD application.

8. Inasmuch as, the appeal stands remanded, the Commissioner (Appeals) would also examine the said fact of time-bar in the light of the provisions of law applicable during the relevant period.

9. The appeal is disposed of in the above manner.

(Dictated and pronounced in the open Court)

Sd/-
Anil.G. Shakkarwar
Member(Technical)

Sd/-
(Archana Wadhawa)
Member (Judicial)

Pant

प्रमाणित प्रति/Certified True Copy
03/01/18
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