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: 05/12/2017

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

Final Order No. A/71805/2017-EX[DB] dated 28/11/2017

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/2465/2011	**Parsons Nutritional (p) Ltd** Plot No.-5,site-iv,industrial Area,sahibabad GHAZIABAD UP
		Name and Address of Respondent
2		C.C.E. & S.T.-Ghaziabad 202...WING A C.G.O. COMPLEX-II,KAMLA NEHRU NAGAR, GHAZIABAD, UTTAR PRADESH-201002

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

N. K. Sharma & Associates,
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NIT,
FARIDABAD,
HARYANA
121001

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 & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. E/2465/2011-EX[DB]

(Arising out of Order-in-Appeal No. 135-CE/GZB/2011-12 dated 14.07.2011 passed by the Commissioner(Appeals), Customs, Central Excise, & Service Tax, Ghaziabad)

Parsons Nutritional (p) Ltd.	**Appellant (s)**
Vs.	
C.C.E. & S.T.- Ghaziabad	**Respondent (s)**

Appearance:

Absent on call	for Appellant
Shri Gyanendra Kumar Tripathi (AC) AR	for Respondent

CORAM:

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

Hon'ble Shri Anil G. Shakkarwar, Member (Technical)

Date of Hearing/Decision :- 28.11.2017

FINAL ORDER NO-..71805/2017....

Per: Mrs. Archana Wadhwa:

On matters being called nobody appeared for the appellant. Accordingly, we have heard learned AR and ~~come~~ gone through ~~to~~ the impugned order.

2. The appellant is engaged in manufacture of Edible Biscuits, some of which are dutiable and some exempted, dependent upon the MRP of the Biscuits. As the appellant availed the Cenvat Credit in respect of common inputs used in the manufacture of dutiable as also exempted final products, the Revenue was of the view that the excess credit availed by them is not admissible. Infact it is seen that the

appellant on their own reversed the credit availed in the Respect ~~steps~~ of inputs used in the manufacture of exempted final products on 30.09.2007.

3. In the above background proceedings were initiated against them for confirmation of demand of interest by observing that the Biscuits carrying MRP of more than Rs.100/- per Kg. were exempted vide Notification No. 22/2007-CE dated 03.05.2007 and the appellant debited the excess Cenvat Credit only on 30.09.2007. As such the interest to the tune of Rs.62,061/- was confirmed against them.

4. The appellant had taken a categorical stand before the authorities below that they were having enough Cenvat Credit in their account and the said excess credit, though availed but was never utilized by them during the relevant period and as such question of confirmation of interest does not arise. The said plea of the assessee was not accepted by the Lower Authority in the light of the law declared by the Hon'ble Supreme Court in the case of Union of India Vs. Ind-Swift Lab Ltd. : 2011 (265) ELT 3 (SC).

5. We find that the said decision of the Hon'ble Supreme Court in the case of Union of India Vs. Ind-Swift Lab Ltd. : 2011 (265) ELT 3 (SC) was considered by the Hon'ble Karnataka High Court in the case of Commissioner Vs. Bill Forge Pvt. Ltd. reported as : 2012 (279) ELT 209 (Kar.) wherein it was held that in case the excess credit does not stand utilized before reversal, no interest liability would arise against the assessee.

6. Inasmuch as the issue is settled, we set aside the confirmation of demand of interest against the assessee and allow the appeal with consequential relief to them.

(Dictated and pronounced in Court)

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

Sd/-
(Archana Wadhawa)
Member (Judicial)

GS