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: 22/01/2018

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70210-70211/2018-EX[DB] dated 15/01/2018

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/116/2012	**CENTURY LAMINATING COMPANY LTD.** MERINO INDUSTRIES LTD. HAPUR, DISTT. GAZIABAD.
2	E/425/2012	**CENTURY LAMINATING COMPANY LTD** (presently Known as Merino Industries Ltd)Hapur, Distt- Ghaziabad.
		Name and Address of Respondent
3		-C.C.E. MEERUT II Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP) -
4		-C.C.E. MEERUT II Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP) -

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Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s):

S. Sunil
46, BANK ENCLAVE,
DELHI -110092

Contd - P/2

6 Bar Association, CESTAT, Allahabad

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

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

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

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

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

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

13 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad - 38

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

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

16 C.D.R. 17 Office Copy 18 Second Folder Copy 19 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

REGIONAL BENCH : ALLAHABAD

COURT No. 1

APPEAL No. E/116 & 425/2012-EX[DB]

(Arising out of Order-in-Appeal No. 474-CE/MRT-II/2011 dated 16/09/2011 passed by Commissioner of Central Excise & Customs (Appeals), Meerut-II)

M/s Century Laminating Company Ltd. **Appellant**

Vs.

Commissioner of Central Excise, Meerut-II **Respondent**

Appearance:

Shri S. Sunil, Advocate, for Appellant
Shri Pradeep Kumar Dubey, Superintendent (AR), for Respondent

CORAM:
Hon'ble Mr. Ashok Jindal, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing & Date of Decision : 15/01/2018

FINAL ORDER NO..70210-70211/2018.

Per: Ashok Jindal

The appellant is in appeal against the impugned orders wherein the differential duty has been demanded on account of classification of the goods.

2. The brief facts of the case are that the appellants were engaged in the manufacture of paper based decorative laminated sheets. The period of dispute is March, 1993 to February, 1994. During the said period, the appellants were filing their classification list of goods under sub heading 4823.90 of Central Excise Tariff Act, 1985. The said classification lists were assessed provisionally. Further classification issue was finally decided in the case of Bakelite Hylam Ltd. reported at 1997 (91) ELT 13 (SC) which was pending before the Apex Court by classifying the same under sub heading 3920.31 of Central Excise Tariff Act, 1985. The appellants were paying duty on their goods classifying under

sub heading 4823.90 of Central Excise Tariff Act, 1985 provisionally. Three Show Cause Notices were issued to the appellants for recovery of differential duty by classifying the goods under sub heading 3920.31 of Central Excise Tariff Act, 1985. The appellants' contention is that as their classification list is provisionally assessed, unless and until, the said provisional assessments of classification list is assessed finally, the Show Cause Notices issued to them for demanding duty by classifying the goods, in question, under sub heading 3920.31 of Central Excise Tariff Act, 1985, is premature. But the show cause notices were adjudicated and duty was demanded by classifying the said goods under sub heading 3920.31 of Central Excise Tariff Act, 1985. Being aggrieved against the said order, the appellants are before us.

3. Learned Counsel for the appellants submits that as their classification list were not finalized therefore, the Show Cause Notices were issued to them are pre-mature. As unless and until the classification list is assessed finally, the Show Cause Notices cannot change the classification.

4. On the other hand, learned A. R. opposed the contention of learned Counsel for the appellants and submits that the classification of goods in question was held against the appellant in the case of Bakelite Hylam Ltd. (supra) wherein the proper classification of the said goods was held under sub heading 3920.31 of Central Excise Tariff Act, 1985.

Therefore, the duty has rightly been demanded from the appellant.

5. Heard both the sided the considered the submissions.

6. On consideration of the submissions of both the sides we find that the issue for consideration before us is that unless and until the classification list is finalized, whether the Show Cause Notice can be issued to the appellant to change their classification of goods. Admittedly, the appellants were filing classification list which were assessed provisionally, in that circumstances, the show cause notice cannot be issued to the appellant to change the classification of goods, unless and until the classification list is finalized. Therefore, the show cause notices issued to the appellant are premature unless and until their classification list is finalized. Admittedly, the finalization of classification list is still pending in that circumstance, we hold that Show Cause Notices issued to the appellant are bad in law. Therefore, the impugned proceedings are set aside.

7. In result, the appeals are allowed with consequential relief, if any.

(Dictated in Court)

Sd/-

Anil G. SHAKKARWAR

(MEMBER TECHNICAL)

Ansari

Sd/-

ASHOK JINDAL

(MEMBER JUDICIAL)

प्रमाणित प्रतिलिपि/Certified True Copy

16/02/18

सहायक रजिस्ट्रार/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