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: 05/01/2018

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70071/2018-EX[DB] dated 02/01/2018

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/164/2010	**TUFTWEN PETROCHEMICALS** 37Km Stone, Delhi-Hapur Road Vill. Lakhan, PO Galand, Dist. Ghaziabad(U.P.)
		Name and Address of Respondent
2		-C.C.E. MEERUT II Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)

Copy To

3Advocate(s) / Consultant(s):

MS. STUTI SAGGI.
ADVOCATES(ALLD)
102, MAHALAXMI ENCLAVE
(ADJ. INCOME TAX OFFICE),
STANLEY ROAD, CIVIL LINES,
ALLAHABAD (U.P.)-211001

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/164/2010-EX[DB]

(Arising out of Order-in-Original No. 35/COMMR/M-II/2009 dated 23/10/2009 passed by Commissioner of Central Excise & Customs, Meerut-II)

M/s Tuftwen Petrochemicals **Appellant**

Vs.

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

Appearance:

Ms Stuti Saggi, Advocate for Appellant
Shri Mohammad Altaf, Assistant Commissioner (AR), for Respondent

CORAM:

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

Date of Hearing : 02/01/2018
Date of Decision : 02/01/2018

FINAL ORDER NO.-70071/2018

Per: Archana Wadhwa

The issue required to be decided in the present appeal is as to whether the Special Boiling Point Sprits (SBPS) used by the appellant in the manufacture of Adhesives and Organic Solvent can be considered to be as eligible inputs for the purpose of Cenvat credit. The lower authorities, by observing that the said SBPS cannot be considered to be an input, disallowed the credit and confirmed the demand along with interest and imposition of penalties.

2. It is seen that the said disputed issue came before the Tribunal in the appellant's own case and vide Final Order

No.267-270/05-V dated 18.02.2005 the dispute was resolved in favour of the appellant. However, when the said decision of the Tribunal was placed before Commissioner (Appeals), he did not follow the same on the ground that revenue has not accepted the said order of the Tribunal and has filed an appeal before the Hon'ble High Court of Allahabad.

3. Apart from the facts that filing of an appeal against the Tribunal's order before the High Court does not take away the effect of that decision, in the absence of any stay order by the higher appellate forum, we note that the appeal filed by the revenue stands withdrawn from the High Court and stands dismissed by the Hon'ble High Court vide its order dated 02.08.2017.

4. In view of the above, the precedent decision of the Tribunal in the appellant's own case would apply to the facts of the present case.

5. Accordingly, the impugned order is set aside and appeal is allowed with consequential relief to the appellant.

(Dictated in Court)

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

Sd/-
(Archana Wadhawa)
Member (Judicial)

akp

प्रमाणित प्रति/Certified True Copy
06/02/18