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: 15/02/2018

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70312/2018-EX[DB] dated 16/01/2018

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/540/2012	C.C.E, MEERUT-II Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)
		Name and Address of Respondent
2		KESAR ENTERPRISES LTD. (SUGAR DIVISION), BAHERI, BAREILLY. (U.P.),,

Copy To

3Advocate(s) / Consultant(s):

KAPIL VAISH
2nd Floor, Part-a Krishna Janki Palace, 35-c, Rampur Garden, Civil Lines, Bareilly, UP

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/540/2012-EX[DB]

(Arising out of Order-in-Appeal No. 511-CE/MRT-II/2011 dated 25/10/2011 passed by Commissioner of Central Excise & Customs (Appeals), Meerut-II)

Commissioner, Customs & Central Excise, Meerut-II **Appellant**

Vs.

M/s Kesar Enterprises Limited (Sugar Divison) **Respondent**

Appearance:

Shri Gyanendra Kumar Tripathi (AC) AR for Appellant
Shri Kapil Vaish (CA) for Respondent

CORAM:

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

Date of Hearing : 16/01/2018
Date of Decision : 16/01/2018

FINAL ORDER NO. 70312/2018............

Per: Ashok Jindal

Heard the parties.

2. The Revenue is filed this appeal against the order of the learned Commissioner (Appeals) on the ground that the learned Commissioner (Appeals) had decided the issue in favour of the respondent relying on the decision of this Tribunal vide Final Order No. A/784-786/2000 dated 14.08.2000. The same has been referred to the Hon'ble High

Court of Allahabad for the reference, therefore, impugned order has to be set aside.

3. The facts of the case are that the respondent filed a classification declaration under Rule 173-B of the Central Excise Rule, 1944 wherein certain remarks has been made. The said classification list was approved alongwith those remarks. The Revenue is on the view that the said remarks are not correct, therefore, the show cause notice was issued to the respondent to deny the availment of Cenvat Credit on molasses which has been used for manufacturing of rectify spirit which was ultimately used for manufacture of Indian Made Foreign Liquor (IMFL). The show cause notice was dropped by the Adjudicating Authority which was challenged before the Learned Commissioner (Appeals) who hold that as issue of availment of Cenvat Credit has been decided by this Tribunal and reference of that order is pending before the Hon'ble High Court and the learned Commissioner (Appeals) was not required to decide the issue. Therefore, it is prayed that the impugned order is liable to be set aside.

4. We find that the reference made to the Hon'ble High Court of Allahabad has already been decided by the Hon'ble High Court vide order dated 08.02.2017 wherein the Reference No. 02/2001 filed by the Revenue has been dismissed. In that circumstances, we hold that as the issue is already attained finality, therefore, we do not find any merit

in the appeal filed by the Revenue. Accordingly, the same is dismissed.

(Dictated and pronounced in Court)

Sd/-

Anil G. SHAKKARWAR

(MEMBER TECHNICAL)

Ankit

Sd/-

ASHOK JINDAL

(MEMBER JUDICIAL)

प्रमाणित प्रति/Certified True Copy
05/03/18
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